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SENATE BILL

No. 1308

**Introduced by Committee on Business and Professions
(Senators Figueroa (Chair), Johannessen, Murray,
O'Connell, Polanco, and Speier)**

March 11, 1999

An act to amend Sections 27, 101, 800, 805.5, 1601, 1640, 1641, 1642, 1686, 1701.5, 1753, 2085, 2103, 2107, 2111, 2113, 2168.2, 2277, 2475, 2499.5, 2506, 2512.5, 2513, 2520, 2532.3, 2538.1, 2565, 2566, 2566.1, 2770.2, 2770.8, 2770.11, 2770.13, 2770.14, 2843, 2895, 2960, 4022, 4043, 4057, 4078, 4102, 4115.5, 4200.5, 4202, 4402, 4518, 4548, 4927, 4929, 4929.5, 4930, 4931, 4933, 4934, 4935, 4940, 4941, 4944, 4946, 4947, 4955, 4956, 4959, 4960.5, 4961, 4963, 4964, 4966, 4967, 4972, 4973, 4975, 4977, 4979, 4990.5, and 4996.8 of, to add Sections 808.5, 1626.5, 1640.1, 1640.2, 1684, 1701.1, 4040.5, 4984.9, and 4992.8 to, to repeal Sections 2119, 2178, and 2185 of, to repeal and amend Section 4965 of, and to repeal and add Section 2770.12 of, the Business and Professions Code, to

amend Sections 12529 and 12529.5 of the Government Code, and to amend Section 11165 of the Health and Safety Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1308, as amended, Committee on Business and Professions. Healing arts: licensees.

(1) Existing law requires various boards in the Department of Consumer Affairs to provide information concerning the status of licensees on the Internet.

This bill would require these boards to provide this information on the Internet on or after July 1, 2001, except as otherwise provided, and would extend the applicability of this requirement to the Board of Psychology.

Existing law requires various boards in the Department of Consumer Affairs to maintain a central file of the names of all persons who hold a license, certificate, or similar authority to provide an individual historical record for each licensee with respect to certain crimes or judgments, and requires certain reports concerning those licensees.

This bill would extend those provisions to the Board of Psychology and the Board of Behavioral Sciences. The bill would also make conforming changes regarding the names of the above-described boards.

(2) Existing law, administered by the Board of Dental Examiners, governs the practice of dentistry, and makes it unlawful for any person to engage in the practice of dentistry unless that person has a valid license or permit. Existing law generally provides that any person who practices dentistry or offers to practice dentistry, as defined, without a license, or when the license has been revoked or suspended is guilty of a misdemeanor for the first offense, and guilty of a felony for the 2nd or subsequent offense. However, under certain conditions, students of dentistry or dental hygiene are exempt from this requirement.

Existing law also authorizes groups of 3 or more dentists to practice under a fictitious name.

Existing law authorizes a person whose license, certificate, or permit to practice dentistry has been revoked or



suspended, or who has been placed on probation, to petition for reinstatement or modification of the penalty.

Existing law provides that every person to whom a special permit to practice dentistry is issued is entitled to practice in the specialty field in which he or she has been examined by the Board of Dental Examiners at the dental college at which he or she is employed and its affiliated institutions, as specified. Existing law requires an examination by the board for a special permit to test the fitness of the applicant to practice the specialty recognized by the board.

This bill would change the name of the Board of Dental Examiners to the Dental Board of California and make multiple changes with respect to dentistry, among which are the following: setting forth additional exemptions from provisions making it unlawful to practice dentistry without a license for students of registered dental assisting, registered dental assisting in extended functions, and registered dental hygiene in extended functions; revising the above-described provisions relating to special permits to entitle every person to whom a special permit is issued to practice in the specialty or discipline in which he or she has been examined by the board at the dental college at which he or she is employed and its affiliated institutions; and authorizing a person whose license, certificate, or permit was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing to petition for reinstatement or modification of penalty.

The bill would also permit individuals or pairs of dentists to practice under fictitious names.

The bill also would require licensed dentists and health care facilities to comply with a request for the dental records of a patient that is accompanied by the patient's written authorization, as specified. This bill would impose various civil penalties for failure to comply.

The bill would make failure to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board, a misdemeanor, thereby imposing a state-mandated local program by creating a new crime.

The bill would provide that any person who willfully, under circumstances or conditions which cause or create risk of specified physical or mental harm or death, practices or attempts to practice, or advertises or holds himself or herself out as practicing dentistry without a valid, unrevoked, and unsuspended certificate to practice dentistry is guilty of a crime, punishable by imprisonment in a county jail for up to one year. By creating a new crime, the bill would impose a state-mandated local program.

(3) Existing law governs the practice of podiatric medicine.

This bill would make technical changes to these provisions.

(4) Existing law governs the practice of midwifery, and provides for the examination and licensing of midwives.

This bill would authorize the Division of Licensing to conduct those examinations but authorize the division to contract for the administration of the examination, as specified, and make related changes with respect to the fee for the examination.

(5) Existing law regulates the practice of nursing, including a diversion program for registered nurses subject to disciplinary action. Existing law establishes diversion evaluation committees to administer the diversion program.

Existing law also provides for the licensure of vocational nurses and psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians. Existing law provides that the board shall include 3 members of the public appointed by the Governor.

This bill would revise various provisions of the diversion program. Among other changes, the bill would require a diversion evaluation committee to report the name and license number of a registered nurse who is terminated from the program and who presents a threat to the public or his or her own health and safety to the board's enforcement program. The bill would make changes regarding the confidentiality provisions of the diversion program, including setting forth circumstances under which a nurse shall be deemed to have waived his or her right to confidentiality.

The bill would also increase the fees for licensing vocational nurses and psychiatric technicians. The bill would also specify

that the number of public members of the board appointed by the Governor is 4.

(6) Existing law provides for the licensure of physicians and surgeons. Existing law imposes various examination and educational requirements for licensure. Existing law specifically prohibits an applicant for examination who fails to pass any part or parts of the written examination after 2 attempts from being reexamined until the applicant completes additional appropriate medical instruction, as specified.

This bill would revise some of the examination requirements, would delete certain provisions regarding passing scores on a specified examination, and would delete the provisions against reexamination after 2 attempts to pass the written examination, as specified above. It would expand provisions that authorize the substitution of postgraduate education and training to remedy deficiencies in medical school education and training, so that certain provisions are not limited to persons who graduated from medical school prior to 1986.

The bill would delete a requirement of an oral examination for an applicant to practice medicine only in connection with a faculty position. The bill would delete provisions that authorize hospital service prior to being notified of the score on required examinations.

(7) Existing law governs the practice of speech-language pathology and audiology.

This bill would make technical changes to those provisions.

(8) Existing law imposes various fees in connection with the registration of dispensing opticians and the issuance of certificates to dispense contact or spectacle lenses, and provides for a reduced initial fee if the license will expire in less than one year.

This bill would eliminate provisions for the reduced fee.

(9) Existing law, the Acupuncture Licensure Act, regulates the practice and licensure of acupuncture and establishes the Acupuncture Board to enforce and administer these provisions.

This bill would require the board to establish standards for the approval of tutorial programs in acupuncture, as specified.

The bill would require that an applicant for renewal of a license submit proof of completing continuing education requirements and impose a delinquency fee if a license is not renewed prior to, rather than within 30 days after, expiration. The bill would also make technical and clarifying changes to these provisions.

(10) Existing law provides for the regulation of the practice of pharmacy.

This bill would revise the definition of “dangerous drug or device” to include drugs or devices bearing the statement “Rx only” and also would revise the definition of “wholesaler.”

(11) Existing law prohibits false or misleading labels on prescriptions.

This bill would permit false labels when necessary for clinical or investigational drug programs, or if necessary to treat the patient. The bill would require records to be maintained for 3 years. Since a violation of the pharmacy law is a crime, the bill would impose a state-mandated local program by expanding a crime.

The bill would revise the instances in which a pharmacist may perform skin puncture in the performance of patient assessment procedures.

The bill would require applicants for registration as a pharmacy technician to be high school graduates or to possess a general education development equivalent, and revise the conditions under which a pharmacy technician student may participate in an externship.

The bill would also provide for the cancellation of licenses not renewed within 60 days by the board, rather than by operation of law.

(12) Existing law provides for the regulation and licensure of marriage, family and child counselors and social workers.

This bill would require notification of name changes to the Board of Behavioral Sciences and make technical nonsubstantive changes.

(13) Existing law provides for the Health Quality Enforcement Section within the Department of Justice, to prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California.



This bill would provide for that section to prosecute licensees and applicants within the jurisdiction of the Board of Psychology.

(14) Existing law requires the Department of Justice to establish the Controlled Substance Utilization Review and Evaluation System, as a 3-year pilot project, expiring July 1, 2000.

This bill would expand the purposes to include statistical analysis, education, and research, and would extend the program until July 1, 2003, as specified.

(15) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27 of the Business and
2 Professions Code is amended to read:
3 27. (a) Every entity specified in subdivision (b), on
4 or after July 1, 2001, unless otherwise authorized by the
5 Department of Information Technology pursuant to
6 Executive Order D-3-99, shall provide on the Internet
7 information regarding the status of every license issued
8 by that entity in accordance with the California Public
9 Records Act (Chapter 3.5 (commencing with Section
10 6250) of Division 7 of Title 1 of the Government Code)
11 and the Information Practices Act of 1977 (Chapter 1
12 (commencing with Section 1798) of Title 1.8 of Part 4 of
13 Division 3 of the Civil Code). The public information to
14 be provided on the Internet shall include information on
15 suspensions and revocations of licenses issued by a board
16 and other related enforcement action taken by a board
17 relative to persons, businesses, or facilities subject to
18 licensure or regulation by a board. In providing
19 information on the Internet, each entity shall comply

1 with the Department of Consumer Affairs Guidelines for
2 Access to Public Records. The information shall not
3 include personal information including home address
4 (unless used as a business address), home telephone
5 number, date of birth, or social security number.

6 (b) Each of the following entities within the
7 Department of Consumer Affairs shall comply with the
8 requirements of this section:

9 (1) The Acupuncture Committee shall disclose
10 information on its licensees.

11 (2) The Board of Behavioral Science Examiners shall
12 disclose information on its licensees, including marriage,
13 family and child counselors; licensed clinical social
14 workers; and licensed educational psychologists.

15 (3) The Board of Dental Examiners shall disclose
16 information on its licensees.

17 (4) The State Board of Optometry shall disclose
18 information regarding certificates of registration to
19 practice optometry, statements of licensure, optometric
20 corporation registrations, branch office licenses, and
21 fictitious name permits of their licensees.

22 (5) The Board for Professional Engineers and Land
23 Surveyors shall disclose information on its registrants and
24 licensees.

25 (6) The Structural Pest Control Board shall disclose
26 information on its licensees, including applicators; field
27 representatives; and operators in the areas of fumigation,
28 general pest and wood destroying pests and organisms,
29 and wood roof cleaning and treatment.

30 (7) The Bureau of Automotive Repair shall disclose
31 information on its licensees, including auto repair dealers,
32 smog stations, lamp and brake stations, smog check
33 technicians, and smog inspection certification stations.

34 (8) The Bureau of Electronic and Appliance Repair
35 shall disclose information on its licensees, including major
36 appliance repair dealers, combination dealers (electronic
37 and appliance), electronic repair dealers, service
38 contract sellers, and service contract administrators.

39 (9) The cemetery program shall disclose information
40 on its licensees, including cemetery brokers, cemetery

1 salespersons, crematories, and cremated remains
2 disposers.

3 (10) The funeral program shall disclose information on
4 its licensees, including, embalmers, funeral director
5 establishments, and funeral directors.

6 (11) The Contractors' State License Board shall
7 disclose information on its licensees in accordance with
8 Chapter 9 (commencing with Section 7000) of Division
9 3.

10 (12) The Board of Psychology shall disclose
11 information on its licensees, including psychologists,
12 psychological assistants, and registered psychologists.

13 (c) "Internet" for the purposes of this section has the
14 meaning set forth in paragraph (6) of subdivision (e) of
15 Section 17538 of the Business and Professions Code.

16 SEC. 1.1. Section 101 of the Business and Professions
17 Code is amended to read:

18 101. The department is comprised of:

19 (a) The Dental Board of California.

20 (b) The Medical Board of California.

21 (c) The State Board of Optometry.

22 (d) The California State Board of Pharmacy.

23 (e) The Veterinary Medical Board.

24 (f) The California Board of Accountancy.

25 (g) The California State Board of Architectural
26 Examiners.

27 (h) The State Board of Barbering and Cosmetology.

28 (i) The Board for Professional Engineers and Land
29 Surveyors.

30 (j) The Contractors' State License Board.

31 (k) The State Board of Funeral Directors and
32 Embalmers.

33 (l) The Structural Pest Control Board.

34 (m) The Bureau of Home Furnishings and Thermal
35 Insulation.

36 (n) The Board of Registered Nursing.

37 (o) The Board of Behavioral Sciences.

38 (p) The State Athletic Commission.

39 (q) The Cemetery Board.

40 (r) The State Board of Guide Dogs for the Blind.

- 1 (s) The Bureau of Security and Investigative Services.
2 (t) The Court Reporters Board of California.
3 (u) The Board of Vocational Nursing and Psychiatric
4 Technicians.
5 (v) The California State Board of Landscape
6 Architects.
7 (w) The Bureau of Electronic and Appliance Repair.
8 (x) The Division of Investigation.
9 (y) The Bureau of Automotive Repair.
10 (z) The State Board of Registration for Geologists and
11 Geophysicists.
12 (aa) The State Board of Nursing Home
13 Administrators.
14 (ab) The Respiratory Care Board.
15 (ac) The Acupuncture Examining Committee.
16 (ad) The Board of Psychology.
17 (ae) The California Board of Podiatric Medicine.
18 (af) The Physical Therapy Board.
19 (ag) The Arbitration Review Program.
20 (ah) The Committee on Dental Auxiliaries.
21 (ai) The Hearing Aid Dispensers Examining
22 Committee.
23 (aj) The Physician Assistant Examining Committee.
24 (ak) The Speech-Language Pathology and Audiology
25 Board.
26 (al) The Tax Preparers Program.
27 (am) Any other boards, offices, or officers subject to its
28 jurisdiction by law.
29 SEC. 2. Section 800 of the Business and Professions
30 Code is amended to read:
31 800. (a) The Medical Board of California, the Board
32 of Psychology, the Dental Board of California, the
33 Osteopathic Medical Board of California, the Board of
34 Chiropractic Examiners, the California Board of
35 Registered Nursing, the Board of Vocational Nursing and
36 Psychiatric Technicians, the State Board of Optometry,
37 the Veterinary Medical Board, the Board of Behavioral
38 Sciences, and the State Board of Pharmacy shall each
39 separately create and maintain a central file of the names
40 of all persons who hold a license, certificate, or similar

1 authority from that board. Each central file shall be
2 created and maintained to provide an individual
3 historical record for each licensee with respect to (1) any
4 conviction of a crime in this or any other state which
5 constitutes unprofessional conduct pursuant to the
6 reporting requirements of Section 803; (2) any judgment
7 or settlement requiring the licensee or his or her insurer,
8 to pay any amount of damages in excess of three thousand
9 dollars (\$3,000) for any claim that injury or death was
10 proximately caused by the licensee's negligence, error or
11 omission in practice, or by rendering unauthorized
12 professional services, pursuant to the reporting
13 requirements of Section 801 or 802; (3) any public
14 complaints for which provision is hereinafter made,
15 pursuant to subdivision (b) of this section; (4)
16 disciplinary information reported pursuant to Section
17 805.

18 (b) Each board shall prescribe and promulgate forms
19 on which members of the public and other licensees or
20 certificate holders may file written complaints to the
21 board alleging any act of misconduct in, or connected
22 with, the performance of professional services by the
23 licensee.

24 If a board, or division thereof, a committee, or a panel
25 has failed to act upon a complaint or report within five
26 years, or has found that the complaint or report is without
27 merit, the central file shall be purged of information
28 relating to the complaint or report.

29 Notwithstanding this subdivision, the Board of
30 Psychology, the Board of Behavioral Sciences, and the
31 Respiratory Care Board of California shall maintain
32 complaints or reports as long as each board deems
33 necessary.

34 (c) The contents of any central file which are not
35 public records under any other provision of law shall be
36 confidential except that the licensee involved, or his or
37 her counsel or representative, shall have the right to
38 inspect and have copies made of his or her complete file
39 except for the provision that may disclose the identity of
40 an information source. For the purposes of this section, a

1 board may protect an information source by providing a
2 copy of the material with only those deletions necessary
3 to protect the identity of the source or by providing a
4 comprehensive summary of the substance of the
5 material. Whichever method is used, the board shall
6 ensure that full disclosure is made to the subject of any
7 personal information that could reasonably in any way
8 reflect or convey anything detrimental, disparaging, or
9 threatening to a licensee's reputation, rights, benefits,
10 privileges, or qualifications, or be used by a board to make
11 a determination that would affect a licensee's rights,
12 benefits, privileges, or qualifications.

13 The licensee may, but is not required to, submit any
14 additional exculpatory or explanatory statement or other
15 information which the board shall include in the central
16 file.

17 Each board may permit any law enforcement or
18 regulatory agency when required for an investigation of
19 unlawful activity or for licensing, certification, or
20 regulatory purposes to inspect and have copies made of
21 that licensee's file, unless the disclosure is otherwise
22 prohibited by law.

23 These disclosures shall effect no change in the
24 confidential status of these records.

25 SEC. 3. Section 805.5 of the Business and Professions
26 Code is amended to read:

27 805.5. (a) Prior to granting or renewing staff
28 privileges for any physician and surgeon, psychologist,
29 podiatrist, or dentist, any health facility licensed pursuant
30 to Division 2 (commencing with Section 1200) of the
31 Health and Safety Code, or any health care service plan
32 or medical care foundation, or the medical staff of any
33 such institution, shall request a report from the Medical
34 Board of California, the Board of Psychology, the
35 Osteopathic Medical Board of California, or the Board of
36 Dental Examiners to determine if any report has been
37 made pursuant to Section 805 indicating that the applying
38 physician and surgeon, psychologist, podiatrist, or dentist
39 has been denied staff privileges, been removed from a
40 medical staff, or had his or her staff privileges restricted

1 as provided in Section 805. The request shall include the
2 name and California license number of the physician and
3 surgeon, psychologist, podiatrist, or dentist. Furnishing of
4 a copy of the 805 report shall not cause the 805 report to
5 be a public record.

6 (b) Upon a request made by, or on behalf of, an
7 institution described in subdivision (a) or its medical
8 staff, which is received on or after January 1, 1980, the
9 board shall furnish a copy of any report made pursuant to
10 Section 805. However, the board shall not send a copy of
11 a report (1) where the denial, removal, or restriction was
12 imposed solely because of the failure to complete medical
13 records, (2) where the board has found the information
14 reported is without merit, or (3) where a period of three
15 years has elapsed since the report was submitted.

16 In the event that the board fails to advise the institution
17 within 30 working days following its request for a report
18 required by this section, the institution may grant or
19 renew staff privileges for the physician and surgeon,
20 psychologist, podiatrist, or dentist.

21 (c) Any institution described in subdivision (a) or its
22 medical staff which violates subdivision (a) is guilty of a
23 misdemeanor and shall be punished by a fine of not less
24 than two hundred dollars (\$200) nor more than one
25 thousand two hundred dollars (\$1,200).

26 SEC. 4. Section 808.5 is added to the Business and
27 Professions Code, to read:

28 808.5. For purposes of this article, reports affecting
29 psychologists required to be filed under Sections 801,
30 801.1, 802, 803, 803.5, and 803.6 shall be filed with the
31 Board of Psychology of the Department of Consumer
32 Affairs.

33 SEC. 5. Section 1601 of the Business and Professions
34 Code is amended to read:

35 1601. (a) There is in the Department of Consumer
36 Affairs Dental Board of California in which the
37 administration of this chapter is vested. The board
38 consists of eight practicing dentists, one registered dental
39 hygienist, one registered dental assistant, and four public
40 members. The board shall be organized into standing

1 committees dealing with examinations, enforcement,
2 and other subjects as the board deems appropriate.

3 This section shall become inoperative on July 1, 2002,
4 and, as of January 1, 2003, is repealed, unless a later
5 enacted statute, which becomes effective on or before
6 January 1, 2003, deletes or extends the dates on which it
7 becomes inoperative and is repealed. The repeal of this
8 section renders the board subject to the review required
9 by Division 1.2 (commencing with Section 473).

10 (b) For purposes of this chapter, any reference in this
11 chapter to the Board of Dental Examiners shall be
12 deemed to refer to the Dental Board of California.

13 SEC. 6. Section 1626.5 is added to the Business and
14 Professions Code, to read:

15 1626.5. In addition to the exemptions set forth in
16 Section 1626, the operations by bona fide students of
17 registered dental assisting, registered dental assisting in
18 extended functions, and registered dental hygiene in
19 extended functions in the clinical departments or the
20 laboratory of an educational program or school approved
21 by the board, including operations by unlicensed students
22 while engaged in clinical externship programs that have
23 been approved by an approved educational program or
24 school, and that are under the general programmatic and
25 academic supervision of that educational program or
26 school, are exempt from the operation of this chapter.

27 SEC. 7. Section 1640 of the Business and Professions
28 Code is amended to read:

29 1640. Any person meeting all the following eligibility
30 requirements may apply for a special permit
31 examination:

32 (a) Furnishing satisfactory evidence of having a
33 pending contract with a California dental college
34 approved by the board as a full-time professor, an
35 associate professor, or an assistant professor.

36 (b) Furnishing satisfactory evidence of having
37 graduated from a dental college approved by the board.

38 (c) Furnishing satisfactory evidence of having been
39 certified as a diplomate of a specialty board or, in lieu
40 thereof, establishing his or her qualifications to take a

1 specialty board examination or furnishing satisfactory
2 evidence of having completed an advanced educational
3 program in a discipline from a dental college approved by
4 the board.

5 (d) Paying the fee for applicants for examination
6 provided by this chapter.

7 SEC. 8. Section 1640.1 is added to the Business and
8 Professions Code, to read:

9 1640.1. As used in this article, the following definitions
10 shall apply:

11 (a) “Specialty” means an area of dental practice
12 approved by the American Dental Association and
13 recognized by the board.

14 (b) “Discipline” means an advanced dental
15 educational program in an area of dental practice not
16 approved as a specialty by the American Dental
17 Association; but offered from a dental college approved
18 by the board.

19 (c) “Dental college approved by the board” means a
20 dental school or college that is approved by the
21 Commission on Dental Accreditation of the American
22 Dental Association, that is accredited by a body that has
23 a reciprocal accreditation agreement with that
24 commission, or that has been approved by the Board of
25 Dental Examiners through its own approval process.

26 SEC. 9. Section 1640.2 is added to the Business and
27 Professions Code, to read:

28 1640.2. The board shall limit the number of special
29 permits to practice in a discipline at a college to the
30 number that may be properly administered and
31 supervised by the board.

32 SEC. 10. Section 1641 of the Business and Professions
33 Code is amended to read:

34 1641. The examination by the board for a special
35 permit shall test the fitness of the applicant to practice a
36 specialty or discipline recognized by the board.

37 SEC. 11. Section 1642 of the Business and Professions
38 Code is amended to read:

39 1642. Every person to whom a special permit is issued
40 shall be entitled to practice in the specialty or discipline

1 in which he or she has been examined by the board at the
2 dental college at which he or she is employed and its
3 affiliated institutions as approved by the board on the
4 following terms and conditions:

5 (a) The special permitholder shall file a copy of his or
6 her employment contract with the board. The contract
7 shall contain the following provision:

8 That the holder understands and acknowledges that
9 when his or her full-time employment is terminated at
10 the dental college, his or her special permit will be
11 automatically revoked and that he or she will voluntarily
12 surrender the permit to the board and will no longer be
13 eligible to practice unless or until he or she has
14 successfully passed the required licensure examination as
15 provided in Article 2 (commencing with Section 1625).

16 (b) The holder shall be employed as a full-time
17 professor, as associate professor, or an assistant professor
18 at a California dental college approved by the board.
19 “Full-time employment” as used in this section shall be
20 considered a minimum of four days per week.

21 (c) The holder shall be subject to all the provisions of
22 this chapter applicable to licensed dentists with the
23 exception that the special permit shall be renewed
24 annually.

25 SEC. 12. Section 1684 is added to the Business and
26 Professions Code, to read:

27 1684. (a) (1) A licensee who fails or refuses to
28 comply with a request for the dental records of a patient,
29 that is accompanied by that patient’s written
30 authorization for release of record to the board, within 15
31 days of receiving the request and authorization, shall pay
32 to the board a civil penalty of two hundred fifty dollars
33 (\$250) per day for each day that the documents have not
34 been produced after the 15th day, up to a maximum of
35 five thousand dollars (\$5,000) unless the licensee is unable
36 to provide the documents within this time period for good
37 cause.

38 (2) A health care facility shall comply with a request
39 for the dental records of a patient that is accompanied by
40 that patient’s written authorization for release of records

1 to the board together with a notice citing this section and
 2 describing the penalties for failure to comply with this
 3 section. Failure to provide the authorizing patient's
 4 dental records to the board within 30 days of receiving
 5 this request, authorization, and notice shall subject the
 6 health care facility to a civil penalty, payable to the board,
 7 of up to two hundred fifty dollars (\$250) per day for each
 8 day that the documents have not been produced after the
 9 30th day, up to a maximum of five thousand dollars
 10 (\$5,000), unless the health care facility is unable to
 11 provide the documents within this time period for good
 12 cause. This paragraph shall not require health care
 13 facilities to assist the board in obtaining the patient's
 14 authorization. The board shall pay the reasonable cost of
 15 copying the dental records.

16 (b) (1) A licensee who fails or refuses to comply with
 17 a court order, issued in the enforcement of a subpoena,
 18 mandating the release of records to the board shall pay to
 19 the board a civil penalty of one thousand dollars (\$1,000)
 20 per day for each day that the documents have not been
 21 produced after the date by which the court order requires
 22 the documents to be produced, unless it is determined
 23 that the order is unlawful or invalid. Any statute of
 24 limitations applicable to the filing of an accusation by the
 25 board shall be tolled during the period the licensee is out
 26 of compliance with the court order and during any
 27 related appeals.

28 (2) Any licensee who fails or refuses to comply with a
 29 court order, issued in the enforcement of a subpoena,
 30 mandating the release of records to the board is guilty of
 31 a misdemeanor punishable by a fine payable to the board
 32 not to exceed five thousand dollars (\$5,000). The fine shall
 33 be added to the licensee's renewal fee if it is not paid by
 34 the next succeeding renewal date. Any statute of
 35 limitations applicable to the filing of an accusation by the
 36 board shall be tolled during the period the licensee is out
 37 of compliance with the court order and during any
 38 related appeals.

39 (3) A health care facility that fails or refuses to comply
 40 with a court order, issued in the enforcement of a

1 subpoena, mandating the release of patient records to the
2 board, that is accompanied by a notice citing this section
3 and describing the penalties for failure to comply with
4 this section, shall pay to the board a civil penalty of up to
5 one thousand dollars (\$1,000) per day for each day that
6 the documents have not been produced, up to ten
7 thousand dollars (\$10,000), after the date by which the
8 court order requires the documents to be produced,
9 unless it is determined that the order is unlawful or
10 invalid. Any statute of limitations applicable to the filing
11 of an accusation by the board against a licensee shall be
12 tolled during the period the health care facility is out of
13 compliance with the court order and during any related
14 appeals.

15 (4) Any health care facility that fails or refuses to
16 comply with a court order, issued in the enforcement of
17 a subpoena, mandating the release of records to the board
18 is guilty of a misdemeanor punishable by a fine payable
19 to the board not to exceed five thousand dollars (\$5,000).
20 Any statute of limitations applicable to the filing of an
21 accusation by the board against a licensee shall be tolled
22 during the period the health care facility is out of
23 compliance with the court order and during any related
24 appeals.

25 (c) Multiple acts by a licensee in violation of
26 subdivision (b) shall be punishable by a fine not to exceed
27 five thousand dollars (\$5,000) or by imprisonment in a
28 county jail not exceeding six months, or by both that fine
29 and imprisonment. Multiple acts by a health care facility
30 in violation of subdivision (b) shall be punishable by a fine
31 not to exceed five thousand dollars (\$5,000) and shall be
32 reported to the State Department of Health Services and
33 shall be considered as grounds for disciplinary action with
34 respect to licensure, including suspension or revocation
35 of the license or certificate.

36 (d) A failure or refusal to comply with a court order,
37 issued in the enforcement of a subpoena, mandating the
38 release of records to the board constitutes unprofessional
39 conduct and is grounds for suspension or revocation of his
40 or her license.



(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a “health care facility” means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

SEC. 13. Section 1686 of the Business and Professions Code is amended to read:

1686. A person whose license, certificate, or permit has been revoked or suspended, who has been placed on probation, or whose license, certificate, or permit was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(a) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.

(b) At least two years for early termination, or modification of a condition, of a probation of three years or more.

(c) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.

The petition shall state any fact required by the board.

The petition may be heard by the board, or the board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

In considering reinstatement or modification or penalty, the board or the administrative law judge hearing the petition may consider (1) all activities of the petitioner since the disciplinary action was taken, (2) the

1 offense for which the petitioner was disciplined, (3) the
2 petitioner's activities during the time the license,
3 certificate, or permit was in good standing, and (4) the
4 petitioner's rehabilitative efforts, general reputation for
5 truth, and professional ability. The hearing may be
6 continued from time to time as the board or the
7 administrative law judge as designated in Section 11371
8 of the Government Code finds necessary.

9 The board or the administrative law judge may impose
10 necessary terms and conditions on the licensee in
11 reinstating a license, certificate, or permit or modifying
12 a penalty.

13 No petition under this section shall be considered while
14 the petitioner is under sentence for any criminal offense,
15 including any period during which the petitioner is on
16 court-imposed probation or parole. No petition shall be
17 considered while there is an accusation or petition to
18 revoke probation pending against the person. The board
19 may deny without a hearing or argument any petition
20 filed pursuant to this section within a period of two years
21 from the effective date of the prior decision following a
22 hearing under this section.

23 Nothing in this section shall be deemed to alter Sections
24 822 and 823.

25 SEC. 14. Section 1701.1 is added to the Business and
26 Professions Code, to read:

27 1701.1. Any person who willfully, under
28 circumstances or conditions which cause or create risk of
29 bodily harm, serious physical or mental illness, or death,
30 practices or attempts to practice, or advertises or holds
31 himself or herself out as practicing dentistry without
32 having at the time of so doing a valid, unrevoked, and
33 unsuspended certificate as provided in this chapter, or
34 without being authorized to perform that act pursuant to
35 a certificate obtained in accordance with some other
36 provision of law, is guilty of a crime, punishable by
37 imprisonment in a county jail for up to one year.

38 The remedy provided in this section shall not preclude
39 any other remedy provided by law.

SEC. 15. Section 1701.5 of the Business and Professions Code is amended to read:

1701.5. Any association or partnership or corporation or group of three or more dentists, engaging in practice under any name that would otherwise be in violation of Section 1701 may practice under this name if, and only if, the association, partnership, corporation or group holds an outstanding, unexpired, unsuspended, and unrevoked permit issued by the board under this section. On and after July 1, 1995, any individual dentist or pair of dentists engaging in the practice of dentistry under any name that would otherwise be in violation of Section 1701 may practice under that name if and only if the dentist or pair of dentists hold an outstanding, unexpired, unsuspended, and unrevoked permit issued by the board under this section. The board shall issue written permits authorizing the holder to use a name specified in the permit in connection with the holder's practice if, and only if, the board finds to its satisfaction that:

(a) The applicant or applicants are duly licensed dentists.

(b) The place or establishment, or the portion thereof, where the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at the place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants.

(c) The name that the applicant or applicants propose to operate contains at least one of the following designations: "dental group," "dental practice," or "dental office" and contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and subdivisions (i) and (l) of Section 1680.

(d) All licensed persons practicing at the location designated in the application hold valid and outstanding licenses and that no charges of unprofessional conduct are pending against any persons practicing at that location.

1 Permits issued under this section by the board shall
2 expire and become invalid unless renewed at the times
3 and in the manner provided for the renewal of
4 certificates issued under this chapter.

5 Any permits issued under this section may be revoked
6 or suspended at any time that the board finds that any one
7 of the requirements for original issuance of a permit is no
8 longer being fulfilled by the holder to whom the permit
9 was issued. Proceedings for revocation or suspension shall
10 be governed by the Administrative Procedure Act.

11 In the event charges of unprofessional conduct are filed
12 against the holder of a permit issued under this section,
13 or a member of an association or partnership or a member
14 of a group or corporation to whom a permit has been
15 issued under this section, proceedings shall not be
16 commenced for revocation or suspension of the permit
17 until final determination of the charges of unprofessional
18 conduct and unless the charges have resulted in
19 revocation or suspension of license.

20 SEC. 16. Section 1753 of the Business and Professions
21 Code is amended to read:

22 1753. The board shall license as a registered dental
23 assistant a person who submits written evidence,
24 satisfactory to the board, of either one of the following
25 requirements:

26 (a) Graduation from an educational program in dental
27 assisting approved by the board, and satisfactory
28 performance on a written examination required by the
29 board. On and after January 1, 1984, every applicant
30 seeking licensure as a registered dental assistant pursuant
31 to this subdivision shall provide evidence of his or her
32 satisfactory performance on a written and practical
33 examination required by the board.

34 (b) Satisfactory work experience of more than 18
35 months as a dental assistant in California or another state
36 and satisfactory performance on a written examination
37 required by the board. The board shall give credit toward
38 the 18 months work experience referred to in this
39 subdivision to persons who have graduated from a dental
40 assisting program in a postsecondary institution approved

1 by the Department of Education or in a secondary
2 institution, regional occupational center, or regional
3 occupational program, that are not, however, approved
4 by the board pursuant to subdivision (a). Such credit shall
5 equal the total weeks spent in classroom training and
6 internship on a week-for-week basis not to exceed 16
7 weeks. The board, in cooperation with the
8 Superintendent of Public Instruction, shall establish the
9 minimum criteria for the curriculum of such
10 nonboard-approved programs. Additionally, the board
11 shall notify those programs only if the program's
12 curriculum does not meet established minimum criteria,
13 as established for board-approved registered dental
14 assistant programs, except any requirement that the
15 program be given in a postsecondary institution.
16 Graduates of programs not meeting established
17 minimum criteria shall not qualify for satisfactory work
18 experience as defined by this section. In addition, on and
19 after January 1, 1984, every applicant seeking licensure as
20 a registered dental assistant pursuant to this subdivision
21 shall provide evidence of his or her satisfactory
22 performance in a written and practical examination
23 required by the board.

24 The Committee on Dental Auxiliaries shall review and
25 report to the board, on or before January 1, 1982, on the
26 number of nonboard-approved programs in existence
27 and the minimum criteria recommended for
28 nonboard-approved programs.

29 SEC. 17. Section 2085 of the Business and Professions
30 Code is amended to read:

31 2085. (a) Notwithstanding Section 2084, a graduate
32 of an approved medical school located in the United
33 States or Canada who has graduated from a special
34 medical school program that does not substantially meet
35 the requirements of Section 2089 with respect to any
36 aspect of curriculum length or content may be approved
37 by the Division of Licensing if the division determines
38 that the applicant has otherwise received adequate
39 instruction in the subjects listed in subdivision (b) of
40 Section 2089.

1 “Adequate instruction” means the applicant has
2 received instruction adequate to prepare the applicant to
3 engage in the practice of medicine in the United States.
4 This definition applies to the sufficiency of instruction of
5 the following courses:

- 6 (1) Anatomy, including gross anatomy, embryology,
7 histology, and neuroanatomy.
- 8 (2) Bacteriology and immunology.
- 9 (3) Biochemistry.
- 10 (4) Pathology.
- 11 (5) Pharmacology.
- 12 (6) Physiology.

13 The division may require an applicant under this
14 section to undertake additional education to bring up to
15 standard, instruction in the subjects listed in subdivision
16 (b) of Section 2089 as a condition of issuing a physician
17 and surgeon’s certificate. In approving an applicant
18 under this section, the division may take into account the
19 applicant’s total relevant academic experience, including
20 performance on standardized national examinations.

21 (b) (1) Notwithstanding subdivision (a) or Sections
22 2084 and 2089, an applicant who is a graduate of an
23 approved medical school located in the United States or
24 Canada who has graduated from a special medical school
25 program that does not substantially meet the
26 requirements of Section 2089 with respect to any aspect
27 of curriculum length or content shall be presumed to
28 meet the requirements of Sections 2084 and 2089 if the
29 special medical school program has been reviewed and
30 approved by a national accrediting agency approved by
31 the division and recognized by the United States
32 Department of Education.

33 (2) This presumption may be overcome upon a
34 finding by the division that the medical education
35 received by the applicant is not the educational
36 equivalent of the medical education received by
37 graduates of medical schools approved pursuant to
38 subdivision (a) or Section 2084. In making its finding, the
39 division shall consider, at a minimum, the applicant’s total
40 academic and medical training experience prior to, and

1 following, as well as during, medical school, the
2 applicant's performance on standardized national
3 examinations, including the National Board
4 Examinations, the applicant's achievements as a house
5 staff officer, and the number of years of postgraduate
6 medical training completed by the applicant.

7 (3) An applicant under this subdivision who (A) has
8 satisfactorily completed at least two years of postgraduate
9 clinical training approved by the Accreditation Council
10 for Graduate Medical Education or the Coordinating
11 Council of Medical Education of the Canadian Medical
12 Association and whose postgraduate training has
13 included at least one year of clinical contact with patients
14 and (B) has achieved a passing score on the written
15 examination required for licensure, satisfies the
16 requirements of Sections 2084 and 2089. For purposes of
17 this subdivision, an applicant who has satisfactorily
18 completed at least two years of approved postgraduate
19 clinical training on or before July 1, 1987, shall not be
20 required to have at least one year of clinical contact with
21 patients.

22 (4) Applicants under this subdivision who apply after
23 satisfactorily completing one year of approved
24 postgraduate training shall have their applications
25 reviewed by the division and shall be informed by the
26 division either that satisfactory completion of a second
27 year of approved postgraduate training will result in their
28 being deemed to meet the requirements of Sections 2084
29 and 2089, or informed of any deficiencies in their
30 qualifications or documentation and the specific
31 remediation, if any, required by the division to meet the
32 requirements of Sections 2084 and 2089. Upon satisfactory
33 completion of the specified remediation, the division
34 shall promptly issue a license to the applicant.

35 SEC. 18. Section 2103 of the Business and Professions
36 Code is amended to read:

37 2103. An applicant who is a citizen of the United
38 States shall be eligible for a physician's and surgeon's
39 certificate if he or she has completed the following
40 requirements:

1 (a) Official transcripts or other official evidence
2 satisfactory to the Division of Licensing of compliance
3 with Section 2088.

4 (b) Official evidence satisfactory to the division of
5 completion of a resident course or professional
6 instruction equivalent to that required in Section 2089 in
7 a medical school located outside the United States or
8 Canada. However, nothing in this section shall be
9 construed to require the division to evaluate for
10 equivalency any coursework obtained at a medical school
11 disapproved by the division pursuant to Article 4
12 (commencing with Section 2080).

13 (c) Official evidence satisfactory to the division of
14 completion of all formal requirements of the medical
15 school for graduation, except the applicant shall not be
16 required to have completed an internship or social
17 service or be admitted or licensed to practice medicine
18 in the country in which the professional instruction was
19 completed.

20 (d) Attained a score satisfactory to an approved
21 medical school on a qualifying examination acceptable to
22 the division.

23 (e) Successful completion of one academic year of
24 supervised clinical training in a program approved by the
25 division pursuant to Section 2104. The division shall also
26 recognize as compliance with this subdivision the
27 successful completion of a one-year supervised clinical
28 medical internship operated by a medical school
29 pursuant to Chapter 85 of the Statutes of 1972 and as
30 amended by Chapter 888 of the Statutes of 1973 as the
31 equivalent of the year of supervised clinical training
32 required by this section.

33 (1) Training received in the academic year of
34 supervised clinical training approved pursuant to Section
35 2104 shall be considered as part of the total academic
36 curriculum for purposes of meeting the requirements of
37 Sections 2089 and 2089.5.

38 (2) An applicant who has passed the basic science and
39 English language examinations required for certification
40 by the Educational Commission for Foreign Medical

1 Graduates may present evidence of those passing scores
2 along with a certificate of completion of one academic
3 year of supervised clinical training in a program
4 approved by the division pursuant to Section 2104 in
5 satisfaction of the formal certification requirements of
6 subdivision (b) of Section 2102.

7 (f) Satisfactory completion of the postgraduate
8 training required under Section 2096.

9 (g) Passed the written examination required for
10 certification as a physician and surgeon in this chapter.

11 SEC. 19. Section 2107 of the Business and Professions
12 Code is amended to read:

13 2107. (a) The Legislature intends that the Division of
14 Licensing shall have the authority to substitute
15 postgraduate education and training to remedy
16 deficiencies in an applicant's medical school education
17 and training. The Legislature further intends that
18 applicants who substantially completed their clinical
19 training shall be granted that substitute credit if their
20 postgraduate education took place in an accredited
21 program.

22 (b) To meet the requirements for licensure set forth
23 in Sections 2089 and 2089.5, the Division of Licensing may
24 require an applicant under this article to successfully
25 complete additional education and training. In
26 determining the content and duration of the required
27 additional education and training, the division shall
28 consider the applicant's medical education and
29 performance on standardized national examinations, and
30 may substitute up to 36 weeks of approved postgraduate
31 training in lieu of specified undergraduate requirements.
32 Postgraduate training substituted for undergraduate
33 training shall be in addition to the year of postgraduate
34 training required by Sections 2102 and 2103.

35 (c) In addition, the division shall accept certified
36 postgraduate training in a program approved by the
37 American Accreditation Committee for Graduate
38 Medical Education or the Coordinating Council of
39 Medical Education of Canada in lieu of undergraduate

1 work in the same subject for any applicant who meets the
2 following criteria:

3 (1) Successful completion of at least 60 weeks of
4 clinical instruction while in medical school.

5 (2) Completion of clinical instruction which does not
6 meet, in whole or in part, the requirements of Section
7 2089.5.

8 Certification of this training shall be made by the
9 program's Director of Medical Education, and shall state
10 that the applicant has satisfactorily completed
11 postgraduate training in the subject areas for which the
12 applicant seeks undergraduate credit and for a duration
13 required by Section 2089.5. Postgraduate training
14 substituted for undergraduate training shall be in
15 addition to the year of postgraduate training required by
16 Sections 2102 and 2103.

17 SEC. 20. Section 2111 of the Business and Professions
18 Code is amended to read:

19 2111. (a) Physicians who are not citizens but who
20 meet the requirements of subdivision (b), are legally
21 admitted to the United States, and who seek postgraduate
22 study in an approved medical school may, after receipt of
23 an appointment from the dean of the California medical
24 school and application to and approval by the Division of
25 Licensing, be permitted to participate in the professional
26 activities of the department in the medical school to
27 which they are appointed. The physician shall be under
28 the direction of the head of the department to which he
29 or she is appointed, and shall be known for these purposes
30 as a "Section 2111 guest physician."

31 (b) (1) Application for approval shall be made on a
32 form prescribed by the division. The application shall
33 show that the person does not immediately qualify for a
34 physician and surgeon certificate under this chapter and
35 that the person has completed at least three years of
36 postgraduate basic residency requirements.

37 (2) Approval shall be granted for a maximum of three
38 years and shall be renewed annually. Renewal shall be
39 granted subject to the discretion of the division.
40 Notwithstanding the limitations in this subdivision on the

length of the approval, a Section 2111 guest physician may apply for, and the division may in its discretion grant, not more than two extensions of that approval. An extension may be granted only if the dean of the California medical school has provided justification that the extension is necessary and the person holds a certificate issued by the Educational Commission for Foreign Medical Graduates.

(c) Except to the extent authorized by this section, the visiting physician may not engage in the practice of medicine, bill for his or her medical services, or otherwise receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure under Section 2102.

(d) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

SEC. 21. Section 2113 of the Business and Professions Code is amended to read:

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under this chapter and who is offered by the dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the Division of Licensing, be granted a certificate of registration to engage in the practice of medicine only to the extent that the practice is incident to and a necessary part of his or her duties as approved by the division in connection with the faculty position.

(b) To qualify for the certificate an applicant shall meet all the following requirements:

(1) Furnish documentary evidence satisfactory to the division that the applicant is a United States citizen or is legally admitted to the United States.

(2) If the applicant is a graduate of a medical school other than in the United States or Canada, furnish documentary evidence satisfactory to the division that he or she has been licensed to practice medicine and surgery

1 for not less than four years in another state or country
2 whose requirements for licensure are satisfactory to the
3 division, or has been engaged in the practice of medicine
4 in the United States for at least four years in approved
5 facilities, or has completed a combination of that
6 licensure and training.

7 If the applicant is a graduate of an approved medical
8 school in the United States or Canada, furnish
9 documentary evidence that he or she has completed a
10 resident course of professional instruction as required in
11 Section 2089.

12 (3) The head of the department in which the applicant
13 is to be appointed shall certify in writing to the division
14 that the applicant will be under his or her direction and
15 will not be permitted to practice medicine unless
16 incident to and a necessary part of the applicant's duties
17 as approved by the division in subdivision (a).

18 (4) Submit an application on a form prescribed by the
19 division.

20 (5) The dean of the medical school shall demonstrate
21 that the applicant has the requisite qualifications to
22 assume the position to which he or she is to be appointed.

23 (c) A certificate of registration is valid for one year
24 after its issuance. During this period the division may
25 require the registrant to take the written examination
26 required for issuance of a physician's and surgeon's
27 certificate. If the registrant is required to take the written
28 examination and does not pass, the certificate of
29 registration shall nevertheless be effective for the
30 one-year period issued and if the effective period of the
31 certificate will lapse before the examination may be
32 retaken, the certificate of registration may be renewed,
33 subject to the discretion of the division, for a period not
34 to exceed one additional year.

35 If the registrant is not required to take the written
36 examination in order to be issued a certificate of
37 registration or has passed that examination, the
38 certificate of registration may be renewed annually at the
39 discretion of the division for a total period of five years
40 from the date of issuance of the original certificate,

1 provided, however, that the division, may in its discretion
2 refuse to renew a certificate of registration if the
3 registrant is a graduate of a medical school other than in
4 the United States or Canada and has not, within two years
5 after registration, been issued a certificate by the
6 Educational Commission for Foreign Medical Graduates.
7 The division may condition any renewal on passing the
8 written examination as described in this subdivision.

9 (d) If the registrant is a graduate of a medical school
10 other than in the United States or Canada, he or she shall
11 meet the requirements of Section 2102 or 2135, as
12 appropriate, in order to obtain a physician's and surgeon's
13 certificate. Notwithstanding any other provision of law,
14 the division may accept practice in an appointment
15 pursuant to this section as qualifying time to meet the
16 postgraduate training requirements in Section 2102, and
17 may, in its discretion, waive the examination and the
18 Educational Commission for Foreign Medical Graduates
19 certification requirements specified in Section 2102 in the
20 event the registrant applies for a physician's and
21 surgeon's certificate. As a condition to waiving any
22 examination or the Educational Commission for Foreign
23 Medical Graduates certification requirement, the
24 division in its discretion, may require an applicant to pass
25 the clinical competency examination referred to in
26 subdivision (d) of Section 2135. The division shall not
27 waive any examination for an applicant who has not
28 completed at least one year in the faculty position.

29 (e) Except to the extent authorized by this section, the
30 registrant shall not engage in the practice of medicine or
31 receive compensation therefor, unless he or she is issued
32 a physician's and surgeon's certificate.

33 SEC. 22. Section 2119 of the Business and Professions
34 Code is repealed.

35 SEC. 23. Section 2168.2 of the Business and
36 Professions Code is amended to read:

37 2168.2. An application for a special faculty permit
38 shall be made on a form prescribed by the Division of
39 Licensing and shall include any information that the
40 Division of Licensing may prescribe to establish an

1 applicant's eligibility for a permit. This information shall
2 include, but is not limited to, the following:

3 (a) A statement from the dean of the medical school
4 at which the applicant will be employed describing the
5 applicant's qualifications and justifying the dean's
6 determination that the applicant is academically
7 eminent.

8 (b) A statement by the dean of the medical school
9 listing every affiliated institution in which the applicant
10 will be providing instruction as part of the medical
11 school's educational program and justifying any clinical
12 activities at each of the institutions listed by the dean.

13 SEC. 24. Section 2178 of the Business and Professions
14 Code is repealed.

15 SEC. 24.5. Section 2185 of the Business and
16 Professions Code is repealed.

17 SEC. 25. Section 2277 of the Business and Professions
18 Code is amended to read:

19 2277. Unless the holder of any certificate provided for
20 in this chapter has been granted the degree of doctor of
21 podiatric medicine after the completion of a full course
22 of study as prescribed by a school or college of podiatric
23 medicine in accordance with the provisions of this
24 chapter, the use of the term or suffix "D.P.M." constitutes
25 unprofessional conduct.

26 SEC. 26. Section 2475 of the Business and Professions
27 Code, as amended by Section 19 of Chapter 736 of the
28 Statutes of 1998, is amended to read:

29 2475. (a) Unless otherwise provided by law, no
30 postgraduate trainee, intern, resident postdoctoral
31 fellow, or instructor may engage in the practice of
32 podiatric medicine, or receive compensation therefor, or
33 offer to engage in the practice of podiatric medicine
34 unless he or she holds a valid, unrevoked, and
35 unsuspended certificate to practice podiatric medicine
36 issued by the division. However, a graduate of an
37 approved college or school of podiatric medicine upon
38 whom the degree doctor of podiatric medicine has been
39 conferred, who is issued a limited license, which may be
40 renewed annually for up to four years, for this purpose by

1 the division upon recommendation of the board, and who
2 is enrolled in a postgraduate training program approved
3 by the board, may engage in the practice of podiatric
4 medicine whenever and wherever required as a part of
5 that program under the following conditions:

6 (1) A graduate with a limited license in an approved
7 internship, residency, or fellowship program may
8 participate in training rotations outside the scope of
9 podiatric medicine, under the supervision of a physician
10 and surgeon who holds a medical doctor or doctor of
11 osteopathy degree wherever and whenever required as
12 a part of the training program, and may receive
13 compensation for that practice. If the graduate fails to
14 receive a license to practice podiatric medicine under
15 this chapter within two years from the commencement
16 of the postgraduate training, all privileges and
17 exemptions under this section shall automatically cease.

18 (2) Podiatric hospitals functioning as a part of the
19 teaching program of an approved college or school of
20 podiatric medicine in this state may exchange instructors
21 or resident or assistant resident podiatrists with another
22 approved college or school of podiatric medicine not
23 located in this state, or those hospitals may appoint a
24 graduate of an approved school as such a resident for
25 purposes of postgraduate training. Those instructors and
26 residents may practice and be compensated as provided
27 in paragraph (1), but that practice and compensation
28 shall be for a period not to exceed one year.

29 (b) This section shall become inoperative on July 1,
30 2000, and as of January 1, 2001, is repealed, unless a later
31 enacted statute, which becomes effective on or before
32 January 1, 2001, deletes or extends the dates on which it
33 becomes inoperative and is repealed.

34 SEC. 27. Section 2475 of the Business and Professions
35 Code, as amended by Section 20 of Chapter 736 of the
36 Statutes of 1998, is amended to read:

37 2475. (a) Unless otherwise provided by law, no
38 postgraduate trainee, intern, resident postdoctoral
39 fellow, or instructor may engage in the practice of
40 podiatric medicine, or receive compensation therefor, or

1 offer to engage in the practice of podiatric medicine
2 unless he or she holds a valid, unrevoked, and
3 unsuspended certificate to practice podiatric medicine
4 issued by the division. However, a graduate of an
5 approved college or school of podiatric medicine upon
6 whom the degree doctor of podiatric medicine has been
7 conferred, who is enrolled in a postgraduate training
8 program approved by the board, may engage in the
9 practice of podiatric medicine whenever and wherever
10 required as a part of that program under the following
11 conditions:

12 (1) A graduate in an approved internship, residency,
13 or fellowship program may participate in training
14 rotations outside the scope of podiatric medicine, under
15 the supervision of a physician and surgeon who holds a
16 medical doctor or doctor of osteopathy degree wherever
17 and whenever required as a part of the training program,
18 and may receive compensation for that practice. If the
19 graduate fails to receive a license to practice podiatric
20 medicine under this chapter within two years from the
21 commencement of the postgraduate training, all
22 privileges and exemptions under this section shall
23 automatically cease.

24 (2) Podiatric hospitals functioning as a part of the
25 teaching program of an approved college or school of
26 podiatric medicine in this state may exchange instructors
27 or resident or assistant resident podiatrists with another
28 approved college or school of podiatric medicine not
29 located in this state, or those hospitals may appoint a
30 graduate of an approved school as such a resident for
31 purposes of postgraduate training. Those instructors and
32 residents may practice and be compensated as provided
33 in paragraph (1), but that practice and compensation
34 shall be for a period not to exceed one year.

35 (b) This section shall become operative on July 1, 2000.

36 SEC. 28. Section 2499.5 of the Business and
37 Professions Code is amended to read:

38 2499.5. The following fees apply to certificates to
39 practice podiatric medicine. The amount of fees
40 prescribed for doctors of podiatric medicine shall be those

1 set forth in this section unless a lower fee is established by
2 the board in accordance with Section 2499.6. Fees
3 collected pursuant to this section shall be fixed by the
4 board in amounts not to exceed the actual costs of
5 providing the service for which the fee is collected.

6 (a) Each applicant for a certificate to practice
7 podiatric medicine shall pay an application fee of twenty
8 dollars (\$20) at the time the application is filed. If the
9 applicant qualifies for a certificate, he or she shall pay a
10 fee which shall be fixed by the board at an amount not to
11 exceed one hundred dollars (\$100) nor less than five
12 dollars (\$5) for the issuance of the certificate.

13 (b) The oral examination fee shall be seven hundred
14 dollars (\$700), or the actual cost, whichever is lower, and
15 shall be paid by each applicant. If the applicant's
16 credentials are insufficient or if the applicant does not
17 desire to take the examination, and has so notified the
18 board 30 days prior to the examination date, only the
19 examination fee is returnable to the applicant. The board
20 may charge an examination fee for any subsequent
21 reexamination of the applicant.

22 (c) Each applicant who qualifies for a certificate, as a
23 condition precedent to its issuance, in addition to other
24 fees required by this section, shall pay an initial license
25 fee. The initial license fee shall be eight hundred dollars
26 (\$800). The initial license shall expire the second year
27 after its issuance on the last day of the month of birth of
28 the licensee. The board may reduce the initial license fee
29 by up to 50 percent of the amount of the fee for any
30 applicant who is enrolled in a postgraduate training
31 program approved by the board or who has completed a
32 postgraduate training program approved by the board
33 within six months prior to the payment of the initial
34 license fee.

35 (d) The biennial renewal fee shall be eight hundred
36 dollars (\$800). Any licensee enrolled in an approved
37 residency program shall be required to pay only 50
38 percent of the biennial renewal fee at the time of his or
39 her first renewal.

1 (e) The delinquency fee is one hundred fifty dollars
2 (\$150).

3 (f) The duplicate wall certificate fee is forty dollars
4 (\$40).

5 (g) The duplicate renewal receipt fee is forty dollars
6 (\$40).

7 (h) The endorsement fee is thirty dollars (\$30).

8 (i) The letter of good standing fee or for loan
9 deferment is thirty dollars (\$30).

10 (j) There shall be a fee of sixty dollars (\$60) for the
11 issuance of a limited license under Section 2475.

12 (k) The filing fee to appeal the failure of an oral
13 examination shall be twenty-five dollars (\$25).

14 (l) The fee for approval of a continuing education
15 course or program shall be one hundred dollars (\$100).

16 SEC. 29. Section 2506 of the Business and Professions
17 Code is amended to read:

18 2506. As used in this article the following definitions
19 shall apply:

20 (a) "Board" means the Division of Licensing of the
21 Medical Board of California.

22 (b) "Licensed midwife" means an individual to whom
23 a license to practice midwifery has been issued pursuant
24 to this article.

25 (c) "Certified nurse-midwife" means a person to
26 whom a certificate has been issued pursuant to Article 2.5
27 (commencing with Section 2746) of Chapter 6.

28 (d) "Accrediting organization" means an organization
29 approved by the board.

30 SEC. 30. Section 2512.5 of the Business and
31 Professions Code is amended to read:

32 2512.5. A person is qualified for a license to practice
33 midwifery when he or she satisfies one of the following
34 requirements:

35 (a) (1) Successful completion of a three-year
36 postsecondary midwifery education program accredited
37 by an accrediting organization approved by the board.
38 Upon successful completion of the education
39 requirements of this article, the applicant shall
40 successfully complete a comprehensive licensing

1 examination adopted by the board which is equivalent,
2 but not identical, to the examination given by the
3 American College of Nurse Midwives. The examination
4 for licensure as a midwife may be conducted by the
5 Division of Licensing under a uniform examination
6 system, and the division may contract with organizations
7 to administer the examination in order to carry out this
8 purpose. The Division of Licensing may, in its discretion,
9 designate additional written examinations for midwifery
10 licensure that the division determines are equivalent to
11 the examination given by the American College of Nurse
12 Midwives.

13 (2) The midwifery education program curriculum
14 shall consist of not less than 84 semester units or 126
15 quarter units. The course of instruction shall be presented
16 in semester or quarter units under the following formula:

17 (A) One hour of instruction in the theory each week
18 throughout a semester or quarter equals one unit.

19 (B) Three hours of clinical practice each week
20 throughout a semester or quarter equals one unit.

21 (3) The midwifery education program shall provide
22 both academic and clinical preparation equivalent, but
23 not identical to that provided in programs accredited by
24 the American College of Nurse Midwives, which shall
25 include, but not be limited to, preparation in all of the
26 following areas:

27 (A) The art and science of midwifery, one-half of
28 which shall be in theory and one-half of which shall be in
29 clinical practice. Theory and clinical practice shall be
30 concurrent in the areas of maternal and child health,
31 including, but not limited to, labor and delivery, neonatal
32 well care, and postpartum care.

33 (B) Communications skills that include the principles
34 of oral, written, and group communications.

35 (C) Anatomy and physiology, genetics, obstetrics and
36 gynecology, embryology and fetal development,
37 neonatology, applied microbiology, chemistry, child
38 growth and development, pharmacology, nutrition,
39 laboratory diagnostic tests and procedures, and physical
40 assessment.

- 1 (D) Concepts in psychosocial, emotional, and cultural
2 aspects of maternal and child care, human sexuality,
3 counseling and teaching, maternal and infant and family
4 bonding process, breast feeding, family planning,
5 principles of preventive health, and community health.
- 6 (E) Aspects of the normal pregnancy, labor and
7 delivery, postpartum period, newborn care, family
8 planning or routine gynecological care in alternative
9 birth centers, homes, and hospitals.
- 10 (F) The following shall be integrated throughout the
11 entire curriculum:
- 12 (i) Midwifery process.
- 13 (ii) Basic intervention skills in preventive, remedial,
14 and supportive midwifery.
- 15 (iii) The knowledge and skills required to develop
16 collegial relationships with health care providers from
17 other disciplines.
- 18 (iv) Related behavioral and social sciences with
19 emphasis on societal and cultural patterns, human
20 development, and behavior related to maternal and child
21 health, illness, and wellness.
- 22 (G) Instruction shall also be given in personal hygiene,
23 client abuse, cultural diversity, and the legal, social, and
24 ethical aspects of midwifery.
- 25 (H) The program shall include the midwifery
26 management process, which shall include all of the
27 following:
- 28 (i) Obtaining or updating a defined and relevant data
29 base for assessment of the health status of the client.
- 30 (ii) Identifying problems based upon correct
31 interpretation of the data base.
- 32 (iii) Preparing a defined needs or problem list, or both,
33 with corroboration from the client.
- 34 (iv) Consulting, collaborating with, and referring to,
35 appropriate members of the health care team.
- 36 (v) Providing information to enable clients to make
37 appropriate decisions and to assume appropriate
38 responsibility for their own health.

(vi) Assuming direct responsibility for the development of comprehensive, supportive care for the client and with the client.

(vii) Assuming direct responsibility for implementing the plan of care.

(viii) Initiating appropriate measures for obstetrical and neonatal emergencies.

(ix) Evaluating, with corroboration from the client, the achievement of health care goals and modifying the plan of care appropriately.

(b) Successful completion of an educational program that the board has determined satisfies the criteria of subdivision (a) and current licensure as a midwife by a state with licensing standards that have been found by the board to be equivalent to those adopted by the board pursuant to this article.

SEC. 31. Section 2513 of the Business and Professions Code is amended to read:

2513. (a) An approved midwifery education program shall offer the opportunity for students to obtain credit by examination for previous midwifery education and clinical experience. The applicant shall demonstrate, by practical examination, the clinical competencies described in Section 2514 or established by regulation pursuant to Section 2514.5. The midwifery education program's credit by examination policy shall be approved by the board, and shall be available to applicants upon request. The proficiency and practical examinations shall be approved by the board.

(b) Completion of clinical experiences shall be verified by a licensed midwife or certified nurse-midwife, and a physician and surgeon, all of whom shall be current in the knowledge and practice of obstetrics and midwifery. Physicians and surgeons, licensed midwives, and certified nurse-midwives who participate in the verification and evaluation of an applicant's clinical experiences shall show evidence of current practice. The method used to verify clinical experiences shall be approved by the board.

(c) Upon successful completion of the requirements of paragraphs (1) and (2), the applicant shall also complete the licensing examination described in paragraph (1) of subdivision (a) of Section 2512.5.

SEC. 32. Section 2520 of the Business and Professions Code is amended to read:

2520. (a) (1) The fee to be paid upon the filing of a license application shall be fixed by the board at not less than seventy-five dollars (\$75) nor more than three hundred dollars (\$300).

(2) The fee for renewal of the midwife license shall be fixed by the board at not less than fifty dollars (\$50) nor more than two hundred dollars (\$200).

(3) The delinquency fee for renewal of the midwife license shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50).

(4) The fee for the examination shall be the cost of administering the examination to the applicant, as determined by the organization that has entered into a contract with the Division of Licensing for the purposes set forth in subdivision (a) of Section 2512.5. Notwithstanding subdivision (b), that fee may be collected and retained by that organization.

(b) The fees prescribed by this article shall be deposited in the Licensed Midwifery Fund, which is hereby established, and shall be available, upon appropriation, to the board for the purposes of this article.

SEC. 33. Section 2532.3 of the Business and Professions Code is amended to read:

2532.3. (a) Upon approval of an application filed pursuant to Section 2532.1, and upon the payment of the fee prescribed by subdivision (i) of Section 2534.2, the board may issue a temporary license for a period of six months from the date of issuance to a speech-language pathologist or audiologist who holds an unrestricted license from another state or territory of the United States or who holds equivalent qualifications as determined by

1 the board and has made application to the board for a
2 license in this state.

3 (b) A temporary license shall terminate upon notice
4 thereof by certified mail, return receipt requested, if it is
5 issued by mistake or if the application for permanent
6 licensure is denied.

7 (c) Upon written application, the board may reissue a
8 temporary license to any person who has applied for a
9 regular renewable license pursuant to Section 2532.1, and
10 who, in the judgment of the board, has been excusably
11 delayed in completing his or her application or the
12 minimum requirements for a regular license. The board
13 may not reissue a temporary license more than twice to
14 any one person.

15 SEC. 33.2. Section 2538.1 of the Business and
16 Professions Code is amended to read:

17 2538.1. (a) The board shall adopt regulations, in
18 collaboration with the State Department of Education,
19 the Commission on Teacher Credentialing, and the
20 Advisory Commission on Special Education, that set forth
21 standards and requirements for the adequate supervision
22 of speech-language pathology assistants.

23 (b) The board shall adopt regulations as reasonably
24 necessary to carry out the purposes of this article, that
25 shall include, but need not be limited to, the following:

26 (1) Procedures and requirements for application,
27 registration, renewal, suspension, and revocation.

28 (2) Standards for approval of Associate Degree
29 Speech-Language Pathology Assistant training programs
30 based upon standards and curriculum guidelines
31 established by the National Council on Academic
32 Accreditation in Audiology and Speech-Language
33 Pathology, or the American Speech-Language-Hearing
34 Association, or equivalent formal training programs
35 consisting of two years of technical education, including
36 supervised field placements.

37 (3) The scope of responsibility, duties, and functions of
38 speech-language pathology assistants, that shall include,
39 but not be limited to, all of the following:

1 (A) Conducting speech-language screening, without
2 interpretation, and using screening protocols developed
3 by the supervising speech-language pathologist.

4 (B) Providing direct treatment assistance to patients
5 or clients under the supervision of a speech-language
6 pathologist.

7 (C) Following and implementing documented
8 treatment plans or protocols developed by a supervising
9 speech-language pathologist.

10 (D) Documenting patient or client progress toward
11 meeting established objectives, and reporting the
12 information to a supervising speech-language
13 pathologist.

14 (E) Assisting a speech-language pathologist during
15 assessments, including, but not limited to, assisting with
16 formal documentation, preparing materials, and
17 performing clerical duties for a supervising
18 speech-language pathologist.

19 (F) When competent to do so, as determined by the
20 supervising speech-language pathologist, acting as an
21 interpreter for non-English-speaking patients or clients
22 and their family members.

23 (G) Scheduling activities and preparing charts,
24 records, graphs, and data.

25 (H) Performing checks and maintenance of
26 equipment, including, but not limited to, augmentative
27 communication devices.

28 (I) Assisting with speech-language pathology research
29 projects, in-service training, and family or community
30 education.

31 The regulations shall provide that speech-language
32 pathology assistants are not authorized to conduct
33 evaluations, interpret data, alter treatment plans, or
34 perform any task without the express knowledge and
35 approval of a supervising speech-language pathologist.

36 (4) The requirements for the wearing of
37 distinguishing name badges with the title of
38 speech-language pathology assistant.

39 (5) Minimum continuing professional development
40 requirements for the speech-language pathology

1 assistant, not to exceed 12 hours in a two-year period. The
2 speech-language pathology assistant's supervisor shall act
3 as a professional development advisor. The
4 speech-language pathology assistant's professional
5 growth may be satisfied with successful completion of
6 state or regional conferences, workshops, formal
7 in-service presentations, independent study programs, or
8 any combination of these concerning communication and
9 related disorders.

10 (6) Minimum continuing professional development
11 requirements for the supervisor of a speech-language
12 pathology assistant.

13 (7) The type and amount of direct and indirect
14 supervision required for speech-language pathology
15 assistants.

16 (8) The maximum number of assistants permitted per
17 supervisor.

18 (9) A requirement that the supervising
19 speech-language pathologist shall remain responsible and
20 accountable for clinical judgments and decisions and the
21 maintenance of the highest quality and standards of
22 practice when a speech-language pathology assistant is
23 utilized.

24 SEC. 33.3. Section 2565 of the Business and
25 Professions Code is amended to read:

26 2565. The amount of fees prescribed in connection
27 with the registration of dispensing opticians shall be as set
28 forth in this section unless a lower fee is fixed by the
29 division:

30 (a) The initial registration fee is one hundred dollars
31 (\$100).

32 (b) The renewal fee is one hundred dollars (\$100).

33 (c) The delinquency fee is twenty-five dollars (\$25).

34 (d) The fee for replacement of a lost, stolen, or
35 destroyed certificate is twenty-five dollars (\$25).

36 This section shall become operative on January 1, 1988.

37 SEC. 34. Section 2566 of the Business and Professions
38 Code is amended to read:

1 2566. The amount of fees prescribed in connection
2 with certificates for contact lens dispensers, unless a
3 lower fee is fixed by the division, is as follows:

4 (a) The application fee for a registered contact lens
5 dispenser shall be one hundred dollars (\$100).

6 (b) The biennial fee for the renewal of certificates
7 shall be fixed by the division in an amount not to exceed
8 one hundred dollars (\$100).

9 (c) The delinquency fee is twenty-five dollars (\$25).

10 (d) The division may by regulation provide for a
11 refund of a portion of the application fee to applicants
12 who do not meet the requirements for registration.

13 (e) The fee for replacement of a lost, stolen, or
14 destroyed certificate is twenty-five dollars (\$25).

15 This section shall become operative on January 1, 1988.

16 SEC. 35. Section 2566.1 of the Business and
17 Professions Code is amended to read:

18 2566.1. The amount of fees prescribed in connection
19 with certificates for spectacle lens dispensers shall be as
20 set forth in this section unless a lower fee is fixed by the
21 division:

22 (a) The initial registration fee is one hundred dollars
23 (\$100).

24 (b) The renewal fee shall be one hundred dollars
25 (\$100).

26 (c) The delinquency fee is twenty-five dollars (\$25).

27 (d) The fee for replacement of a lost, stolen or
28 destroyed certificate is twenty-five dollars (\$25).

29 SEC. 36. Section 2770.2 of the Business and
30 Professions Code is amended to read:

31 2770.2. One or more diversion evaluation committees
32 is hereby created in the state to be established by the
33 board. Each committee shall be composed of five persons
34 appointed by the board. No board member shall serve on
35 any committee.

36 Each committee shall have the following composition:

37 (a) Three registered nurses, holding active California
38 licenses, who have demonstrated expertise in the field of
39 chemical dependency or psychiatric nursing.

1 (b) One physician, holding an active California
2 license, who specializes in the diagnosis and treatment of
3 addictive diseases or mental illness.

4 (c) One public member who is knowledgeable in the
5 field of chemical dependency or mental illness.

6 It shall require a majority vote of the board to appoint
7 a person to a committee. Each appointment shall be at the
8 pleasure of the board for a term not to exceed four years.
9 In its discretion the board may stagger the terms of the
10 initial members appointed.

11 SEC. 37. Section 2770.8 of the Business and
12 Professions Code is amended to read:

13 2770.8. Each committee shall have the following
14 duties and responsibilities:

15 (a) To evaluate those registered nurses who request
16 participation in the program according to the guidelines
17 prescribed by the board.

18 (b) To review and designate those treatment services
19 to which registered nurses in a diversion program may be
20 referred.

21 (c) To receive and review information concerning a
22 registered nurse participating in the program.

23 (d) To consider in the case of each registered nurse
24 participating in a program whether he or she may with
25 safety continue or resume the practice of nursing.

26 (e) To call meetings as necessary to consider the
27 requests of registered nurses to participate in a diversion
28 program, and to consider reports regarding registered
29 nurses participating in a program.

30 (f) To set forth in writing for each registered nurse
31 participating in a program a rehabilitation program
32 established for that registered nurse with the
33 requirements for supervision and surveillance.

34 SEC. 38. Section 2770.11 of the Business and
35 Professions Code is amended to read:

36 2770.11. (a) Each registered nurse who requests
37 participation in a diversion program shall agree to
38 cooperate with the rehabilitation program designed by a
39 committee. Any failure to comply with the provisions of
40 a rehabilitation program may result in termination of the

1 registered nurse's participation in a program. The name
2 and license number of a registered nurse who is
3 terminated for any reason, other than successful
4 completion, shall be reported to the board's enforcement
5 program.

6 (b) If a committee determines that a registered nurse,
7 who is terminated from the program, presents a threat to
8 the public or his or her own health and safety, the
9 committee shall report the name and license number,
10 along with a copy of all diversion records for that
11 registered nurse, to the board's enforcement program.
12 The board may use any of the records it receives under
13 this subdivision in any disciplinary proceeding.

14 SEC. 39. Section 2770.12 of the Business and
15 Professions Code is repealed.

16 SEC. 39.1. Section 2770.12 is added to the Business and
17 Professions Code, to read:

18 2770.12. (a) After a committee in its discretion has
19 determined that a registered nurse has successfully
20 completed the diversion program, all records pertaining
21 to the registered nurse's participation in the diversion
22 program shall be purged.

23 (b) All board and committee records and records of a
24 proceeding pertaining to the participation of a registered
25 nurse in the diversion program shall be kept confidential
26 and are not subject to discovery or subpoena, except as
27 specified in subdivision (b) of Section 2770.11 and
28 subdivision (c).

29 (c) A registered nurse shall be deemed to have waived
30 any rights granted by any laws and regulations relating to
31 confidentiality of the diversion program, if he or she does
32 any of the following:

33 (1) Presents information relating to any aspect of the
34 diversion program during any stage of the disciplinary
35 process subsequent to the filing of an accusation,
36 statement of issues, or petition to compel an examination
37 pursuant to Article 12.5 (commencing with Section 820)
38 of Chapter 1. The waiver shall be limited to information
39 necessary to verify or refute any information disclosed by
40 the registered nurse.

1 (2) Files a lawsuit against the board relating to any
2 aspect of the diversion program.

3 (3) Claims in defense to a disciplinary action, based on
4 a complaint that led to the registered nurse's
5 participation in the diversion program, that he or she was
6 prejudiced by the length of time that passed between the
7 alleged violation and the filing of the accusation. The
8 waiver shall be limited to information necessary to
9 document the length of time the registered nurse
10 participated in the diversion program.

11 SEC. 40. Section 2770.13 of the Business and
12 Professions Code is amended to read:

13 2770.13. The board shall provide for the legal
14 representation of any person making reports under this
15 article to a committee or the board in any action for
16 defamation directly resulting from those reports
17 regarding a registered nurse's participation in a diversion
18 program.

19 SEC. 41. Section 2770.14 of the Business and
20 Professions Code is amended to read:

21 2770.14. (a) The board shall produce reports which
22 include, but are not limited to, information concerning
23 the number of cases accepted, denied, or terminated with
24 compliance or noncompliance.

25 (b) The board shall conduct a periodic cost analysis of
26 the program.

27 SEC. 41.2. Section 2843 of the Business and
28 Professions Code is amended to read:

29 2843. Members of the board shall be appointed for a
30 term of four years. Vacancies occurring shall be filled by
31 appointment for the unexpired term.

32 Appointments to the office shall be for a term of four
33 years expiring on June 1st.

34 The Governor shall appoint four of the public members
35 and the licensed members of the board qualified as
36 provided in Section 2842. The Senate Rules Committee
37 and the Speaker of the Assembly shall each appoint a
38 public member, and their initial appointment shall be
39 made to fill, respectively, the first and second public

1 member vacancies which occur on or after January 1,
2 1983.

3 SEC. 42. Section 2895 of the Business and Professions
4 Code is amended to read:

5 2895. The amount of the fees prescribed by this
6 chapter in connection with the issuance of licenses under
7 its provisions is that fixed by the following schedule:

8 (a) The fee to be paid upon the filing of an application
9 shall be in an amount not less than seventy-five dollars
10 (\$75) and may be fixed by the board at an amount no
11 more than one hundred fifty dollars (\$150).

12 (b) The fee to be paid for taking each examination
13 shall be the actual cost to purchase the examination from
14 a vendor approved by the board.

15 (c) The fee to be paid for any examination after the
16 first shall be in an amount not less than seventy-five
17 dollars (\$75) and may be fixed by the board at an amount
18 no more than one hundred fifty dollars (\$150).

19 (d) The biennial renewal fee to be paid upon the filing
20 of an application for renewal shall be in an amount not less
21 than one hundred dollars (\$100) and may be fixed by the
22 board at an amount no more than one hundred fifty
23 dollars (\$150).

24 (e) Notwithstanding Section 163.5, the delinquency
25 fee for failure to pay the biennial renewal fee within the
26 prescribed time shall be in an amount not less than fifty
27 dollars (\$50) and may be fixed by the board at not more
28 than 50 percent of the regular renewal fee and in no case
29 more than seventy-five dollars (\$75).

30 (f) The initial license fee is an amount equal to the
31 biennial renewal fee in effect on the date the application
32 for the license is filed.

33 (g) The fee to be paid for an interim permit shall be
34 in an amount not less than forty dollars (\$40) and may be
35 fixed by the board at an amount no more than fifty dollars
36 (\$50).

37 (h) The fee to be paid for a duplicate license shall be
38 in an amount not less than twenty-five dollars (\$25) and
39 may be fixed by the board at an amount no more than fifty
40 dollars (\$50).

(i) The fee to be paid for processing endorsement papers to other states shall be in an amount not less than seventy-five dollars (\$75) and may be fixed by the board at an amount no more than one hundred dollars (\$100).

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

SEC. 43. Section 2960 of the Business and Professions Code is amended to read:

2960. The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that this use impairs his or her ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

- 1 (i) Violating any rule of professional conduct
2 promulgated by the board and set forth in regulations
3 duly adopted under this chapter.
- 4 (j) Being grossly negligent in the practice of his or her
5 profession.
- 6 (k) Violating any of the provisions of this chapter or
7 regulations duly adopted thereunder.
- 8 (l) The aiding or abetting of any person to engage in
9 the unlawful practice of psychology.
- 10 (m) The suspension, revocation or imposition of
11 probationary conditions by another state or country of a
12 license or certificate to practice psychology or as a
13 psychological assistant issued by that state or country to
14 a person also holding a license or registration issued under
15 this chapter if the act for which the disciplinary action was
16 taken constitutes a violation of this section.
- 17 (n) The commission of any dishonest, corrupt, or
18 fraudulent act.
- 19 (o) Commencing January 1, 1999, until January 1, 2001,
20 any act of sexual abuse, or sexual relations with a patient
21 or former patient within two years following termination
22 of therapy, or sexual misconduct that is substantially
23 related to the qualifications, functions or duties of a
24 psychologist or psychological assistant or registered
25 psychologist.
- 26 On and after January 1, 2001, any act of sexual abuse, or
27 sexual relations with a patient, or sexual misconduct that
28 is substantially related to the qualifications, functions, or
29 duties of a psychologist, psychological assistant, or
30 registered psychologist.
- 31 (p) Functioning outside of his or her particular field or
32 fields of competence as established by his or her
33 education, training, and experience.
- 34 (q) Willful failure to submit, on behalf of an applicant
35 for licensure, verification of supervised experience to the
36 board.
- 37 (r) Repeated acts of negligence.
- 38 The board shall study and report to the Legislature on
39 or before July 1, 2000, concerning the efficacy of the
40 prohibition contained in subdivision (o).



1 SEC. 44. Section 4022 of the Business and Professions
2 Code is amended to read:

3 4022. “Dangerous drug” or “dangerous device”
4 means any drug or device unsafe for self-use, except
5 veterinary drugs that are labeled as such, and includes the
6 following:

7 (a) Any drug that bears the legend: “Caution: federal
8 law prohibits dispensing without prescription,” “Rx
9 only,” or words of similar import.

10 (b) Any device that bears the statement: “Caution:
11 federal law restricts this device to sale by or on the order
12 of a _____,” “Rx only,” or words of similar import, the
13 blank to be filled in with the designation of the
14 practitioner licensed to use or order use of the device.

15 (c) Any other drug or device that by federal or state
16 law can be lawfully dispensed only on prescription or
17 furnished pursuant to Section 4006.

18 SEC. 45. Section 4040.5 is added to the Business and
19 Professions Code, to read:

20 4040.5. “Reverse distributor” means every person
21 who acts as an agent for pharmacies, drug wholesalers,
22 manufacturers, and other entities by receiving,
23 inventorying, and managing the disposition of outdated
24 or nonsalable dangerous drugs.

25 SEC. 46. Section 4043 of the Business and Professions
26 Code is amended to read:

27 4043. “Wholesaler” means and includes every person
28 who acts as a wholesale merchant, broker, jobber,
29 customs broker, reverse distributor, or agent, who sells
30 for resale, or negotiates for distribution, or takes
31 possession of, any drug or device included in Section 4022.
32 Unless otherwise authorized by law, a wholesaler may not
33 store, warehouse, or authorize the storage or
34 warehousing of drugs with any person or at any location
35 not licensed by the board.

36 SEC. 47. Section 4057 of the Business and Professions
37 Code is amended to read:

38 4057. (a) Except as provided in Sections 4006, 4240,
39 and 4342, this chapter does not apply to the retail sale of
40 nonprescription drugs that are not subject to Section 4022

1 and that are packaged or bottled in the manufacturer's or
2 distributor's container and labeled in accordance with
3 applicable federal and state drug labeling requirements.

4 (b) This chapter does not apply to specific dangerous
5 drugs and dangerous devices listed in board regulations,
6 where the sale or furnishing is made to any of the
7 following:

8 (1) A physician, dentist, podiatrist, pharmacist,
9 medical technician, medical technologist, optometrist, or
10 chiropractor holding a currently valid and unrevoked
11 license and acting within the scope of his or her
12 profession.

13 (2) A clinic, hospital, institution, or establishment
14 holding a currently valid and unrevoked license or permit
15 under Division 2 (commencing with Section 1200) of the
16 Health and Safety Code, or Chapter 2 (commencing with
17 Section 3300) of Division 3 of, or Part 2 (commencing
18 with Section 6250) of Division 6 of, the Welfare and
19 Institutions Code.

20 (c) This chapter shall not apply to a home health
21 agency licensed under Chapter 8 (commencing with
22 Section 1725) of, or a hospice licensed under Chapter 8.5
23 (commencing with Section 1745) of, Division 2 of, the
24 Health and Safety Code, when it purchases, stores,
25 furnishes, or transports specific dangerous drugs and
26 dangerous devices listed in board regulations in
27 compliance with applicable law and regulations
28 including:

29 (1) Dangerous devices described in subdivision (b) of
30 Section 4022, as long as these dangerous devices are
31 furnished only upon the prescription or order of a
32 physician, dentist, or podiatrist.

33 (2) Hypodermic needles and syringes.

34 (3) Irrigation solutions of 50 cubic centimeters or
35 greater.

36 (d) This chapter does not apply to the storage of
37 devices in secure central or ward supply areas of a clinic,
38 hospital, institution, or establishment holding a currently
39 valid and unrevoked license or permit pursuant to
40 Division 2 (commencing with Section 1200) of the Health



1 and Safety Code, or pursuant to Chapter 2 (commencing
2 with Section 3300) of Division 3 of, or Part 2
3 (commencing with Section 6250) of Division 6 of, the
4 Welfare and Institutions Code.

5 (e) This chapter does not apply to the retail sale of
6 vitamins, mineral products, or combinations thereof or to
7 foods, supplements, or nutrients used to fortify the diet of
8 humans or other animals or poultry and labeled as such
9 that are not subject to Section 4022 and that are packaged
10 or bottled in the manufacturer's or distributor's container
11 and labeled in accordance with applicable federal and
12 state labeling requirements.

13 (f) This chapter does not apply to the furnishing of
14 dangerous drugs and dangerous devices to recognized
15 schools of nursing. These dangerous drugs and dangerous
16 devices shall not include controlled substances. The
17 dangerous drugs and dangerous devices shall be used for
18 training purposes only, and not for the cure, mitigation,
19 or treatment of disease in humans. Recognized schools of
20 nursing for purposes of this subdivision are those schools
21 recognized as training facilities by the California Board of
22 Registered Nursing.

23 SEC. 48. Section 4078 of the Business and Professions
24 Code is amended to read:

25 4078. (a) (1) No person shall place a false or
26 misleading label on a prescription.

27 (2) No prescriber shall direct that a prescription be
28 labeled with any information that is false or misleading.

29 (b) Notwithstanding subdivision (a), a person may
30 label a prescription, or a prescriber may direct that a
31 prescription be labeled, with information about the drug
32 that is false under either of the following circumstances:

33 (1) If the labeling is a necessary part of a clinical or
34 investigational drug program approved by the federal
35 Food and Drug Administration or a legitimate
36 investigational drug project involving a drug previously
37 approved by the federal Food and Drug Administration.

38 (2) If, in the medical judgment of the prescriber, the
39 labeling is appropriate for the proper treatment of the
40 patient.

1 (c) The furnisher of a prescription labeled pursuant to
2 subdivision (b) shall make, and retain for three years
3 from the date of making, a record stating the manner in
4 which the information on the prescription label varies
5 from the actual drug in the container and documenting
6 the order of the prescriber to so label the container. The
7 prescriber shall make, and retain for at least three years,
8 a record of his or her order to so label the container.

9 SEC. 49. Section 4102 of the Business and Professions
10 Code is amended to read:

11 4102. Notwithstanding Section 2038 or any other
12 provision of law, a pharmacist ~~may perform skin puncture~~
13 ~~in the course of routine patient assessment procedures.~~
14 ~~For purposes of this section, "routine" means procedures~~
15 ~~which a patient could, with or without a prescription,~~
16 ~~perform for him or herself may perform skin puncture in~~
17 ~~the course of performing routine patient assessment~~
18 ~~procedures. For purposes of this section, "routine patient~~
19 ~~assessment procedures" means (a) procedures that a~~
20 ~~patient could, with or without a prescription, perform for~~
21 ~~himself or herself, and (b) clinical laboratory tests that~~
22 ~~are classified as waived or moderate pursuant to the~~
23 ~~federal Clinical Laboratory Improvement Amendments~~
24 ~~of 1988 (42 U.S.C. Sec. 263a) and the regulations adopted~~
25 ~~thereunder by the federal Health Care Financing~~
26 ~~Administration, as authorized by paragraph (II) of~~
27 ~~subdivision (a) and paragraph (13) of subdivision (b) of~~
28 ~~Section 1206.5. A pharmacist performing these functions~~
29 ~~shall, at the direction of the patient, report the results~~
30 ~~obtained from a blood test to the patient and the patient's~~
31 ~~physician of choice. Any pharmacist who performs the~~
32 ~~service authorized by this section shall not be in violation~~
33 ~~of Section 2052.~~

34 SEC. 50. Section 4115.5 of the Business and
35 Professions Code is amended to read:

36 4115.5. (a) Notwithstanding any other provision of
37 law, a pharmacy technician student may be placed in a
38 pharmacy as a pharmacy technician trainee to complete
39 an externship for the purpose of obtaining practical
40 training that is required by the board as a condition of

1 becoming registered as a pharmacy technician. A
2 “pharmacy technician student” is a person who is
3 enrolled in a pharmacy technician training program
4 operated by a California public postsecondary education
5 institution or by a private postsecondary vocational
6 institution approved by the Bureau for Private
7 Postsecondary and Vocational Education.

8 (b) (1) A pharmacy technician trainee participating
9 in an externship as described in subdivision (a) may
10 perform the duties described in subdivision (a) of Section
11 4115 only under the immediate, personal supervision and
12 control of a pharmacist. A pharmacist supervising a
13 pharmacy technician trainee shall be on the premises and
14 have the trainee within his or her view at any time the
15 trainee performs the duties described in subdivision (a)
16 of Section 4115.

17 (2) A pharmacist supervising a pharmacy technician
18 trainee participating in an externship as described in
19 subdivision (a) shall be directly responsible for the
20 conduct of the trainee.

21 (3) A pharmacist supervising a pharmacy technician
22 trainee participating in an externship as described in
23 subdivision (a) shall verify any prescription prepared by
24 the trainee under supervision of the pharmacist by
25 initialing the prescription label before the medication is
26 disbursed to a patient.

27 (4) No more than one pharmacy technician trainee
28 per pharmacist may participate in an externship as
29 described in subdivision (a) under the immediate,
30 personal supervision and control of that pharmacist at any
31 time the trainee is present in the pharmacy.

32 (5) A pharmacist supervising a pharmacy technician
33 trainee participating in an externship as described in
34 subdivision (a) shall certify attendance for the pharmacy
35 technician trainee and certify that the pharmacy
36 technician trainee has met the educational objectives
37 established by California public postsecondary education
38 institution or the private postsecondary vocational
39 institution in which the trainee is enrolled, as established
40 by the institution.

(c) (1) Except as described in paragraph (2), an externship in which a pharmacy technician trainee is participating as described in subdivision (a) shall be for a period of no more than 120 hours.

(2) When an externship in which a pharmacy technician trainee is participating as described in subdivision (a) involves rotation between a community and hospital pharmacy for the purpose of training the student in distinct practice settings, the externship may be for a period of up to 320 hours. No more than 120 of the 320 hours may be completed in a community pharmacy setting or in a single department in a hospital pharmacy.

(d) An externship in which a pharmacy technician trainee may participate as described in subdivision (a) shall be for a period of no more than six consecutive months in a community pharmacy and for a total of no more than 12 months if the externship involves rotation between a community and hospital pharmacy. The externship shall be completed while the trainee is enrolled in a course of instruction at the institution.

(e) A pharmacy technician trainee participating in an externship as described in subdivision (a) shall wear identification that indicates his or her student status.

SEC. 51. Section 4200.5 of the Business and Professions Code is amended to read:

4200.5. (a) The board shall issue, upon application and payment of the fee established by Section 4400, a retired license to a pharmacist who has been licensed by the board for 20 years or longer, and who holds a license that is current and capable of being renewed pursuant to Section 4401, that is not suspended, revoked, or otherwise disciplined, or subject to pending discipline, under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active pharmacist's license is required. A pharmacist holding a retired license shall be permitted to use the titles "retired pharmacist" or "pharmacist, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.

SEC. 52. Section 4202 of the Business and Professions Code is amended to read:

4202. (a) An applicant for registration as a pharmacy technician shall be issued a certificate of registration if he or she is a high school graduate or possesses a general education development equivalent, and meets any one of the following requirements:

(1) Has obtained an Associate of Arts degree in a field of study directly related to the duties performed by a pharmacy technician.

(2) Has completed a course of training specified by the board.

(3) Is eligible to take the board's pharmacist licensure examination, but has not been licensed by the board as a pharmacist. Once licensed as a pharmacist, the pharmacy technician registration is no longer valid and the pharmacy technician certificate of registration must be returned to the board within 15 days.

(4) Has provided satisfactory proof to the board of one year's experience performing the tasks specified in subdivision (a) of Section 4115 while employed or utilized as a pharmacy technician to assist in the filling of prescriptions for an inpatient of a hospital, for an inmate of a correctional facility, or experience deemed equivalent by the board.

(b) The board shall adopt regulations pursuant to this section for the registration of pharmacy technicians and for the specification of training courses as set out in paragraph (2) of subdivision (a). Proof of the qualifications of any applicant for registration as a pharmacy technician shall be made to the satisfaction of the board and shall be substantiated by any evidence as may be required by the board.

(c) The board shall conduct a criminal background check of the applicant to determine if an applicant has committed acts that would constitute grounds for denial

1 of registration, pursuant to this chapter or Chapter 2
2 (commencing with Section 480) of Division 1.5.

3 (d) The board may suspend or revoke any registration
4 issued pursuant to this section on any ground specified in
5 Section 4301.

6 SEC. 53. Section 4402 of the Business and Professions
7 Code is amended to read:

8 4402. (a) Any pharmacist license that is not renewed
9 within three years following its expiration may not be
10 renewed, restored, or reinstated and shall be canceled by
11 operation of law at the end of the three-year period.

12 (b) (1) Any pharmacist whose license is canceled
13 pursuant to subdivision (a) may obtain a new license if he
14 or she takes and passes the examination that is required
15 for initial license with the board.

16 (2) The board may impose conditions on any license
17 issued pursuant to this section, as it deems necessary.

18 (c) A license that has been revoked by the board
19 under former Section 4411 shall be deemed canceled
20 three years after the board's revocation action, unless the
21 board has acted to reinstate the license in the interim.

22 (d) This section shall not affect the authority of the
23 board to proceed with any accusation that has been filed
24 prior to the expiration of the three-year period.

25 (e) Any other license issued by the board may be
26 canceled by the board if the license is not renewed within
27 60 days after its expiration. Any license canceled under
28 this subdivision may not be reissued. Instead, a new
29 application will be required.

30 SEC. 54. Section 4518 of the Business and Professions
31 Code is amended to read:

32 4518. In the event the board adopts a continuing
33 education program, the board may collect a biennial fee
34 as prescribed under Section 4548 from any provider of a
35 course in continuing education who requests approval by
36 the board of the course for purposes of continuing
37 education requirements adopted by the board. The fee,
38 however, shall in no event exceed the cost required for
39 the board to administer the approval of continuing
40 education courses by continuing education providers.

1 SEC. 55. Section 4548 of the Business and Professions
2 Code is amended to read:

3 4548. The amount of the fees prescribed by this
4 chapter in connection with the issuance of licenses under
5 its provisions shall be according to the following schedule:

6 (a) The fee to be paid upon the filing of an application
7 shall be in an amount not less than one hundred dollars
8 (\$100), and may be fixed by the board at an amount no
9 more than one hundred fifty dollars (\$150).

10 (b) The fee to be paid for taking each examination
11 shall be the actual cost to purchase an examination from
12 a vendor approved by the board.

13 (c) The fee to be paid for any examination after the
14 first shall be in an amount of not less than one hundred
15 dollars (\$100), and may be fixed by the board at an
16 amount no more than one hundred fifty dollars (\$150).

17 (d) The biennial renewal fee to be paid upon the filing
18 of an application for renewal shall be in an amount not less
19 than two hundred forty dollars (\$240), and may be fixed
20 by the board at an amount no more than three hundred
21 dollars (\$300).

22 (e) Notwithstanding Section 163.5, the delinquency
23 fee for failure to pay the biennial renewal fee within the
24 prescribed time shall be in an amount not less than one
25 hundred twenty dollars (\$120) and may be fixed by the
26 board at not more than 50 percent of the regular renewal
27 fee and in no case more than one hundred fifty dollars
28 (\$150).

29 (f) The initial license fee is an amount equal to the
30 biennial renewal fee in effect on the date the application
31 for the license is filed.

32 (g) The fee to be paid for an interim permit shall be
33 in an amount no less than twenty dollars (\$20) and may
34 be fixed by the board at an amount no more than fifty
35 dollars (\$50).

36 (h) The fee to be paid for a duplicate license shall be
37 in an amount not less than twenty dollars (\$20) and may
38 be fixed by the board at an amount no more than fifty
39 dollars (\$50).

(i) The fee to be paid for processing endorsement papers to other states shall be in an amount not less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(j) The fee to be paid for postlicensure certification in blood withdrawal shall be in an amount not less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(k) The biennial fee to be paid upon the filing of an application for renewal for a provider of an approved continuing education course or a course to meet the certification requirements for blood withdrawal shall be in an amount not less than one hundred fifty dollars (\$150), and may be fixed by the board at an amount no more than two hundred dollars (\$200).

SEC. 56. Section 4927 of the Business and Professions Code is amended to read:

4927. As used in this chapter, unless the context otherwise requires:

(a) “Board” means the Acupuncture ‘Board’.

(b) “Person” means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

(c) “Acupuncturist” means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

(d) “Acupuncture” means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

SEC. 57. Section 4929 of the Business and Professions Code is amended to read:

4929. Four members of the board shall be acupuncturists with at least five years of experience in acupuncture and not licensed as physicians and surgeons, one member of the board shall be a physician and surgeon

1 licensed in this state with two years of experience in
2 acupuncture, and four members shall be public members
3 who do not hold a license or certificate as a physician and
4 surgeon or acupuncturist.

5 The Governor shall appoint the four acupuncturist
6 members qualified as provided in this section, who shall
7 be appointed to represent a cross section of the cultural
8 backgrounds of licensed members of the acupuncturist
9 profession, two of the public members, and the one
10 licensed physician and surgeon member qualified as
11 provided in this section. All members appointed to the
12 board by the Governor shall be subject to confirmation by
13 the Senate. The Senate Rules Committee and the Speaker
14 of the Assembly shall each appoint a public member. Any
15 member of the board may be removed by the appointing
16 power for neglect of duty, misconduct, or malfeasance in
17 office, after being provided with a written statement of
18 the charges and an opportunity to be heard.

19 SEC. 58. Section 4929.5 of the Business and
20 Professions Code is amended to read:

21 4929.5. In the reduction of the membership of the
22 board or a successor board or entity from 11 to 9 members,
23 the following transition provisions shall apply:

24 (a) Upon the first expiration, after January 1, 1999, of
25 the term of a physician and surgeon member, the board
26 shall be reduced to 10 members, five of whom shall be
27 acupuncturist members, one of whom shall be a physician
28 and surgeon, and four of whom shall be public members.
29 Notwithstanding any other provision of law, the term of
30 that physician and surgeon member shall not be extended
31 for any reason.

32 (b) Upon the first expiration, after January 1, 2000, of
33 the term of an acupuncturist member, the board shall be
34 reduced to nine members, four of whom shall be
35 acupuncturist members, one of whom shall be a physician
36 and surgeon, and four of whom shall be public members.
37 Notwithstanding any other provision of law, the term of
38 that acupuncturist member shall not be extended for any
39 reason.

1 SEC. 59. Section 4930 of the Business and Professions
2 Code is amended to read:

3 4930. Each member of the board shall be appointed
4 for a term of four years.

5 SEC. 60. Section 4931 of the Business and Professions
6 Code is amended to read:

7 4931. Each member of the board shall receive per
8 diem and expenses as provided in Section 103.

9 SEC. 61. Section 4933 of the Business and Professions
10 Code is amended to read:

11 4933. (a) The board shall administer this chapter.

12 (b) The board may adopt, amend, or repeal, in
13 accordance with the Administrative Procedure Act
14 (Chapter 3.5 (commencing with Section 11340) of Part 1
15 of Division 3 of Title 2 of the Government Code),
16 regulations as may be necessary to enable it to carry into
17 effect the provisions of law relating to the practice of
18 acupuncture.

19 (c) A majority of the appointed members of the board
20 shall constitute a quorum to conduct business.

21 (d) It shall require an affirmative vote of a majority of
22 those present at a meeting of the board to take any action
23 or pass any motion.

24 SEC. 62. Section 4934 of the Business and Professions
25 Code is amended to read:

26 4934. The board shall employ personnel necessary for
27 the administration of this chapter; however, the board
28 may appoint an executive officer who is exempt from the
29 provisions of the Civil Service Act.

30 This section shall become inoperative on July 1, 2003,
31 and, as of January 1, 2004, is repealed, unless a later
32 enacted statute, which becomes effective on or before
33 January 1, 2004, deletes or extends the dates on which it
34 becomes inoperative and is repealed.

35 The repeal of this section renders the board subject to
36 the review required by Division 1.2 (commencing with
37 Section 473).

38 SEC. 63. Section 4935 of the Business and Professions
39 Code is amended to read:



4935. (a) Any person who practices acupuncture or holds himself or herself out as practicing or engaging in the practice of acupuncture, unless he or she possesses a current and valid acupuncturist's license, is guilty of a misdemeanor.

(b) Notwithstanding any other provision of law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed acupuncturist," "oriental medicine," or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, oriental medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training when he or she:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter; or

(2) Is a graduate of a school of acupuncture approved by the board and participating in a postgraduate review course that does not exceed six months in duration at a school approved by the board.

SEC. 64. Section 4940 of the Business and Professions Code is amended to read:

4940. (a) The board shall establish standards for the approval of tutorial programs for education and training in the practice of acupuncture, that satisfy the

1 requirements of Section 4938. The board shall also
2 establish standards for the approved supervising
3 acupuncturists.

4 (b) An acupuncturist shall be approved to supervise a
5 trainee, provided the supervisor meets the following
6 conditions:

7 (1) Is licensed to practice acupuncture in this state and
8 that license is current, valid, and has not been suspended
9 or revoked or otherwise subject to disciplinary action.

10 (2) Has filed an application with the board.

11 (3) Files with the board the name of each trainee to be
12 trained or employed and a training program satisfactory
13 to the board.

14 (4) Does not train or employ more than two
15 acupuncture trainees at any one time.

16 (5) Has at least 10 years of experience practicing as an
17 acupuncturist and has been licensed in this state for at
18 least five years.

19 (6) Is found by the board to have the knowledge
20 necessary to educate and train the trainee in the practice
21 of an acupuncturist.

22 The amendments made to this section at the 1993
23 portion of the 1993–94 Regular Session of the Legislature
24 shall not affect the approval of any supervising
25 acupuncturist which has been issued prior to the effective
26 date of those amendments.

27 SEC. 65. Section 4941 of the Business and Professions
28 Code is amended to read:

29 4941. In reviewing applications for licensure based
30 upon the completion of a tutorial program in
31 acupuncture, the board may provide that credit is
32 granted for relevant prior training and experience when
33 that training or experience otherwise meets the
34 standards set by the board.

35 SEC. 66. Section 4944 of the Business and Professions
36 Code is amended to read:

37 4944. (a) The board shall have the authority to
38 investigate and evaluate each and every applicant
39 applying for a license to practice acupuncture and to
40 make the final determination of the admission of the

1 applicant to the examination, or for the issuance of a
2 license, in conformance with the provisions of this
3 chapter.

4 (b) The board shall investigate and evaluate each
5 school or college applying for approval under Section
6 4939 and may utilize and contract with consultants to
7 evaluate those training programs.

8 (c) The board may delegate to the executive officer or
9 other official of the board its authority under this section
10 in routine matters.

11 SEC. 67. Section 4946 of the Business and Professions
12 Code is amended to read:

13 4946. The board shall report to the Legislature on the
14 31st day of January each year on the nature and extent of
15 the standards, test, and experience requirements
16 adopted pursuant to this chapter, as well as statistical
17 information relating to the total number of persons
18 certified under this chapter to that date and the number
19 certified within the preceding year.

20 The report shall include recommendations for
21 legislation if the board considers legislation to be
22 necessary.

23 SEC. 68. Section 4947 of the Business and Professions
24 Code is amended to read:

25 4947. (a) Nothing in this chapter shall be construed
26 to prevent the practice of acupuncture by a person
27 licensed as a dentist or a podiatrist, within the scope of
28 their respective licenses, if the licensee has received a
29 course of instruction in acupuncture. This course material
30 shall be approved by the licensing board having
31 jurisdiction over the licensee. The board shall assist the
32 licensing boards in providing information as requested by
33 the individual licensing boards.

34 (b) The course requirement set forth in subdivision
35 (a) shall not apply to a podiatrist or dentist who has
36 completed a course in acupuncture, including a
37 continuing education course, and has utilized
38 acupuncture prior to July 1, 1982.

39 SEC. 69. Section 4955 of the Business and Professions
40 Code is amended to read:

1 4955. The board may deny, suspend, or revoke, or
2 impose probationary conditions upon, the license of any
3 acupuncturist if he or she is guilty of unprofessional
4 conduct that has endangered or is likely to endanger the
5 health, safety, or welfare of the public.

6 Unprofessional conduct shall include, but not be
7 limited to, the following:

8 (a) Securing a license by fraud or deceit.

9 (b) Committing a fraudulent or dishonest act as an
10 acupuncturist resulting in substantial injury to another.

11 (c) Using any controlled substance as defined in
12 Division 10 (commencing with Section 11000) of the
13 Health and Safety Code, or dangerous drug or alcoholic
14 beverage to an extent or in a manner dangerous to
15 himself or herself, or to any other person, or to the public,
16 and to an extent that the use impairs his or her ability to
17 engage in the practice of acupuncture with safety to the
18 public.

19 (d) Conviction of a crime substantially related to the
20 qualifications, functions, or duties of an acupuncturist, the
21 record of conviction being conclusive evidence thereof.

22 (e) Improper advertising.

23 (f) Violating or conspiring to violate the terms of this
24 chapter.

25 (g) Gross negligence.

26 (h) Repeated negligent acts.

27 (i) Incompetence.

28 (j) Except for good cause, the knowing failure to
29 protect patients by failing to follow infection control
30 guidelines of the board, thereby risking transmission of
31 blood-borne infectious diseases from licensee to patient,
32 from patient to patient, and from patient to licensee. In
33 administering this subdivision, the board shall consider
34 referencing the standards, regulations, and guidelines of
35 the State Department of Health Services developed
36 pursuant to Section 1250.11 of the Health and Safety Code
37 and the standards, regulations, and guidelines pursuant to
38 the California Occupational Safety and Health Act of 1973
39 (Part 1 (commencing with Section 6300) of Division 5 of
40 the Labor Code) for preventing the transmission of HIV,

1 hepatitis B, and other blood-borne pathogens in health
2 care settings. As necessary, the committee shall consult
3 with the Medical Board of California, the California
4 Board of Podiatric Medicine, the Board of Dental
5 Examiners of the State of California, the Board of
6 Registered Nursing, and the Board of Vocational Nursing
7 and Psychiatric Technicians, to encourage appropriate
8 consistency in the implementation of this subdivision.

9 The board shall seek to ensure that licensees are
10 informed of the responsibility of licensees and others to
11 follow infection control guidelines, and of the most recent
12 scientifically recognized safeguards for minimizing the
13 risk of transmission of blood-borne infectious diseases.

14 (k) The revocation, suspension, or other discipline,
15 restriction, or limitation imposed by another state upon
16 a license or certificate to practice acupuncture issued by
17 that state, or the revocation, suspension, or restriction of
18 the authority to practice acupuncture by an agency of the
19 federal government, on grounds that would have been
20 grounds for disciplinary action in California of a licensee
21 under this chapter.

22 SEC. 70. Section 4956 of the Business and Professions
23 Code is amended to read:

24 4956. A plea or verdict of guilty or a conviction
25 following a plea of nolo contendere made to a charge
26 which is substantially related to the qualifications,
27 functions, or duties of an acupuncturist is deemed to be
28 a conviction within the meaning of this chapter.

29 The board may order a license suspended or revoked,
30 or may deny a license, or may impose probationary
31 conditions upon a license, when the time for appeal has
32 elapsed, or the judgment of conviction has been affirmed
33 on appeal, or when an order granting probation is made
34 suspending the imposition of sentence irrespective of a
35 subsequent order under the provisions of Section 1203.4
36 of the Penal Code allowing the person to withdraw his or
37 her pleas of guilty and to enter a plea of not guilty, or
38 setting aside the verdict of guilty, or dismissing the
39 accusation, complaint, information, or indictment.

1 SEC. 71. Section 4959 of the Business and Professions
2 Code is amended to read:

3 4959. (a) The board may request the administrative
4 law judge, under his or her proposed decision in
5 resolution of a disciplinary proceeding before the board,
6 to direct any licensee found guilty of unprofessional
7 conduct to pay to the board a sum not to exceed actual
8 and reasonable costs of the investigation and prosecution
9 of the case.

10 (b) The costs to be assessed shall be fixed by the
11 administrative law judge and shall not in any event be
12 increased by the board. When the board does not adopt
13 a proposed decision and remands the case to an
14 administrative law judge, the administrative law judge
15 shall not increase the amount of any costs assessed in the
16 proposed decision.

17 (c) When the payment directed in the board's order
18 for payment of costs is not made by the licensee, the board
19 may enforce the order for payment in the superior court
20 in the county where the administrative hearing was held.
21 This right of enforcement shall be in addition to any other
22 rights the board may have as to any licensee directed to
23 pay costs.

24 (d) In any judicial action for the recovery of costs,
25 proof of the board's decision shall be conclusive proof of
26 the validity of the order of payment and the terms for
27 payment.

28 (e) All costs recovered under this section shall be
29 considered a reimbursement for costs incurred and shall
30 be deposited in the Acupuncture Fund.

31 SEC. 72. Section 4960.5 of the Business and
32 Professions Code is amended to read:

33 4960.5. (a) A person whose license or registration has
34 been revoked, suspended, or surrendered, or who has
35 been placed on probation, may petition the board for
36 reinstatement or modification of penalty, including
37 modification or termination of probation, after a period
38 of not less than the following minimum periods has
39 elapsed from the effective date of the decision ordering
40 that disciplinary action:

(1) At least three years for reinstatement of a license revoked or surrendered.

(2) At least two years for early termination of probation of three years or more.

(3) At least two years for modification of a condition of probation.

(4) At least one year for early termination of probation of less than three years.

(b) The board may require an examination for that reinstatement.

(c) Notwithstanding Section 489, a person whose application for a license or registration has been denied by the board, for violations of Division 1.5 (commencing with Section 475) of this chapter, may reapply to the board for a license or registration only after a period of three years has elapsed from the date of the denial.

SEC. 73. Section 4961 of the Business and Professions Code is amended to read:

4961. (a) Every person who is now or hereafter licensed to practice acupuncture in this state shall register, on forms prescribed by the Acupuncture Board, his or her place of practice, or, if he or she has more than one place of practice, all of the places of practice. If the licensee has no place of practice, he or she shall notify the board of that fact. A person licensed by the board shall register within 30 days after the date of his or her licensure.

(b) An acupuncturist licensee shall post his or her license in a conspicuous location in his or her place of practice at all times. If an acupuncturist has more than one place of practice, he or she shall obtain from the board a duplicate license for each additional location and post the duplicate license at each location.

(c) Any licensee that changes the location of his or her place of practice shall register each change within 30 days of making that change. In the event a licensee fails to notify the board of any change in the address of a place of practice within the time prescribed by this section, the board may deny renewal of licensure. An applicant for renewal of licensure shall specify in his or her application

1 whether or not there has been a change in the location of
2 his or her place of practice and, if so, the date of that
3 change. The board may accept that statement as
4 evidence of the change of address.

5 SEC. 74. Section 4963 of the Business and Professions
6 Code is amended to read:

7 4963. Whenever any person has engaged in an act or
8 practice which constitutes an offense against this chapter,
9 a superior court of a county on application of the board
10 may issue an injunction or other appropriate order
11 restraining that conduct. Proceedings under this section
12 shall be governed by Chapter 3 (commencing with
13 Section 525) of Title 7 of Part 2 of the Code of Civil
14 Procedure. The board may commence action in such
15 superior court under the provisions of this section on its
16 own motion and no undertaking shall be required in any
17 action commenced by the board.

18 SEC. 75. Section 4964 of the Business and Professions
19 Code is amended to read:

20 4964. The provisions of this article insofar as they are
21 substantially the same as provisions relating to the same
22 subject matter of any previous acupuncture licensure law
23 shall be construed as a restatement and continuation
24 thereof, and not as a new enactment.

25 SEC. 76. Section 4965 of the Business and Professions
26 Code, as amended by Section 18 of Chapter 983 of the
27 Statutes of 1991, is repealed.

28 SEC. 77. Section 4965 of the Business and Professions
29 Code, as added by Section 19 of Chapter 983 of the
30 Statutes of 1991, is amended to read:

31 4965. (a) Licenses issued pursuant to this chapter
32 shall expire on the last day of the birth month of the
33 licensee during the second year of a two-year term, if not
34 renewed.

35 (b) The board shall establish and administer a birth
36 date renewal program.

37 (c) To renew an unexpired license, the holder shall
38 apply for renewal on a form provided by the board and
39 pay the renewal fee fixed by the board.



SEC. 78. Section 4966 of the Business and Professions Code is amended to read:

4966. Except as provided in Section 4969, a license that has expired may be renewed at any time within three years after its expiration by filing of an application for renewal on a form provided by the board, paying all accrued and unpaid renewal fees, and providing proof of completing continuing education requirements. If the license is not renewed prior to its expiration, the acupuncturist, as a condition precedent to renewal, shall also pay the prescribed delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date the delinquency fee is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in Section 4965, after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

SEC. 79. Section 4967 of the Business and Professions Code is amended to read:

4967. A person who fails to renew his or her license within three years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but that person may apply for and obtain a new license if he or she meets all of the following requirements:

(a) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination, if any, which would be required of him or her if an initial application for licensure was being made, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he or she is qualified to practice as an acupuncturist.

(c) Pays all of the fees that would be required if an initial application for licensure was being made. The board may provide for the waiver or refund of all or any

1 part of an examination fee in those cases in which a license
2 is issued without an examination pursuant to this section.

3 SEC. 80. Section 4972 of the Business and Professions
4 Code is amended to read:

5 4972. Fees fixed by the board shall be set forth in
6 regulations duly adopted by the board.

7 SEC. 81. Section 4973 of the Business and Professions
8 Code is amended to read:

9 4973. A fee for the inspection or reinspection of a
10 school or college of acupuncture for purposes of approval
11 or continued approval shall be charged at an amount to
12 recover the direct costs incurred by the board in
13 conducting that inspection and evaluation of the school
14 or college.

15 SEC. 82. Section 4975 of the Business and Professions
16 Code is amended to read:

17 4975. An acupuncture corporation is a corporation
18 which is authorized to render professional services, as
19 defined in Section 13401 of the Corporations Code, so long
20 as that corporation and its shareholders, officers,
21 directors, and employees rendering professional services
22 who are acupuncturists are in compliance with the
23 Moscone-Knox Professional Corporation Act, this article
24 and all other statutes and regulations now or hereafter
25 enacted or adopted pertaining to that corporation and
26 the conduct of its affairs.

27 With respect to an acupuncture corporation, the
28 governmental agency referred to in the Moscone-Knox
29 Professional Corporation Act is the Acupuncture Board.

30 SEC. 83. Section 4977 of the Business and Professions
31 Code is amended to read:

32 4977. An acupuncture corporation shall not do or fail
33 to do any act the doing of which or the failure to do which
34 would constitute unprofessional conduct under Article 4
35 (commencing with Section 4955). In the conduct of its
36 practice, it shall observe and be bound by statutes and
37 regulations to the same extent as a person holding a
38 license under this chapter.

39 SEC. 84. Section 4979 of the Business and Professions
40 Code is amended to read:



1 4979. The board may adopt and enforce regulations to
2 carry out the purposes and objectives of this article,
3 including, but not limited to, regulations requiring (a)
4 that the bylaws of an acupuncture corporation shall
5 include a provision whereby the capital stock of the
6 corporation owned by a disqualified person (as defined in
7 Section 13401 of the Corporations Code), or a deceased
8 person, shall be sold to the corporation or to the
9 remaining shareholders of the corporation within the
10 time the regulations may provide, and (b) that an
11 acupuncture corporation shall provide adequate security
12 by insurance or otherwise for claims against it by its
13 patients arising out of the rendering of professional
14 services.

15 SEC. 85. Section 4984.9 is added to the Business and
16 Professions Code, to read:

17 4984.9. A licensee or registrant shall give written
18 notice to the board of a name change within 30 days after
19 each change, giving both the old and new names. A copy
20 of the legal document authorizing the name change, such
21 as a court order or marriage certificate, shall be submitted
22 with the notice.

23 SEC. 86. Section 4990.5 of the Business and
24 Professions Code is amended to read:

25 4990.5. Each member of the board, except the
26 members first appointed, shall be appointed for a term of
27 four years and shall hold office until the appointment and
28 qualification of his or her successor or until one year shall
29 have elapsed since the expiration of the term for which
30 he or she was appointed, whichever first occurs.
31 Vacancies occurring shall be filled by appointment for the
32 unexpired term.

33 The Governor shall appoint four of the public members
34 and the five licensed members qualified as provided in
35 Section 4990.3 with the advice and consent of the Senate.
36 The Senate Rules Committee and the Speaker of the
37 Assembly shall each appoint a public member, and their
38 initial appointment shall be made to fill, respectively, the
39 first and second public member vacancies which occur on
40 or after January 1, 1983.

1 SEC. 87. Section 4992.8 is added to the Business and
2 Professions Code, to read:

3 4992.8. A licensee or registrant shall give written
4 notice to the board of a name change within 30 days after
5 each change, giving both the old and new names. A copy
6 of the legal document authorizing the name change, such
7 as a court order or marriage certificate, shall be submitted
8 with the notice.

9 SEC. 88. Section 4996.8 of the Business and
10 Professions Code is amended to read:

11 4996.8. The current renewal receipt shall be
12 displayed near the license.

13 SEC. 89. Section 12529 of the Government Code is
14 amended to read:

15 12529. (a) There is in the Department of Justice the
16 Health Quality Enforcement Section. The primary
17 responsibility of the section is to prosecute proceedings
18 against licensees and applicants within the jurisdiction of
19 the Medical Board of California including all committees
20 under the jurisdiction of the board or a division of the
21 board, including the Board of Podiatric Medicine, and the
22 Board of Psychology, and to provide ongoing review of
23 the investigative activities conducted in support of those
24 prosecutions, as provided in subdivision (b) of Section
25 12629.5.

26 (b) The Attorney General shall appoint a Senior
27 Assistant Attorney General of the Health Quality
28 Enforcement Section. The Senior Assistant Attorney
29 General of the Health Quality Enforcement Section shall
30 be an attorney in good standing licensed to practice in the
31 State of California, experienced in prosecutorial or
32 administrative disciplinary proceedings and competent
33 in the management and supervision of attorneys
34 performing those functions.

35 (c) The Attorney General shall ensure that the Health
36 Quality Enforcement Section is staffed with a sufficient
37 number of experienced and able employees that are
38 capable of handling the most complex and varied types
39 of disciplinary actions against the licensees of the division
40 or board.

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, and the committees under the jurisdiction of the Medical Board of California or a division of the board, and the Board of Psychology, with the intent that the expenses be proportionally shared as to services rendered.

SEC. 90. Section 12529.5 of the Government Code is amended to read:

12529.5. (a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California or the Board of Psychology shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to assist the division and the boards in intake and investigations and to direct discipline-related prosecutions. Attorneys shall be assigned to work closely with each major intake and investigatory unit of the boards, to assist in the evaluation and screening of complaints from receipt through disposition and to assist in developing uniform standards and procedures for the handling of complaints and investigations.

A deputy attorney general of the Health Quality Enforcement Section shall frequently be available on location at each of the working offices at the major investigation centers of the boards, to provide consultation and related services and engage in case review with the boards' investigative, medical advisory, and intake staff. The Senior Assistant Attorney General and deputy attorneys general working at his or her direction shall consult as appropriate with the investigators of the boards, medical advisors, and executive staff in the investigation and prosecution of disciplinary cases.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards, division,

1 or allied health committees, including the Board of
2 Podiatric Medicine, in designing and providing initial and
3 in-service training programs for staff of the division,
4 boards, or allied health committees, including, but not
5 limited to, information collection and investigation.

6 (d) The determination to bring a disciplinary
7 proceeding against a licensee of the division or the boards
8 shall be made by the executive officer of the division, the
9 board, or allied health committee, including the Board of
10 Podiatric Medicine, or the Board of Psychology, as
11 appropriate in consultation with the senior assistant.

12 SEC. 91. Section 11165 of the Health and Safety Code
13 is amended to read:

14 11165. (a) To assist law enforcement and regulatory
15 agencies in their efforts to control the diversion and
16 resultant abuse of Schedule II controlled substances, and
17 for statistical analysis, education, and research, the
18 Department of Justice shall, contingent upon the
19 availability of adequate funds, establish the Controlled
20 Substance Utilization Review and Evaluation System
21 (CURES) for the electronic monitoring of the
22 prescribing and dispensing of Schedule II controlled
23 substances by all practitioners authorized to prescribe or
24 dispense these controlled substances. CURES shall be
25 implemented as a pilot project, commencing on July 1,
26 1997, to be administered concurrently with the existing
27 triplicate prescription process, to examine the
28 comparative efficiencies between the two systems.

29 (b) The CURES pilot project shall operate under
30 existing provisions of law to safeguard the privacy and
31 confidentiality of patients. Data obtained from CURES
32 shall only be provided to appropriate state, local, and
33 federal persons or public agencies for disciplinary, civil,
34 or criminal purposes and to other agencies or entities, as
35 determined by the Department of Justice, for the
36 purpose of educating practitioners and others in lieu of
37 disciplinary, civil, or criminal actions. Data may be
38 provided to public or private entities, as approved by the
39 Department of Justice, for educational, peer review,
40 statistical, or research purposes, provided that patient

1 information, including any information that may identify
2 the patient, is not compromised. Further, data disclosed
3 to any individual or agency as described in this
4 subdivision, shall not be disclosed, sold, or transferred to
5 any third party.

6 (c) The Department of Justice, in consultation with
7 the Board of Pharmacy, shall submit a report to the
8 Legislature by January 1, 1999, with annual updates also
9 due January 1, 2000, 2001, and 2002, on the CURES pilot
10 project. Specifically, these reports shall assess the ability
11 of CURES to provide complete, accurate, and timely data
12 on Schedule II controlled substances prescribed and
13 dispensed in California, the effectiveness of this
14 information in investigating and prosecuting individuals
15 suspected of diversion activities, and the feasibility of
16 replacing the current triple-copy prescription form with
17 a single-copy serialized prescription form to reduce
18 existing administrative burdens. Further, the report shall
19 make recommendations regarding the replacement of
20 the existing triplicate prescription process with CURES,
21 and funding alternatives for ongoing system support.

22 (d) The sum of one million fifty thousand dollars
23 (\$1,050,000) is hereby appropriated from the Pharmacy
24 Board Contingent Fund to the Board of Pharmacy for the
25 purpose of entering into an interagency agreement with
26 the Department of Justice for the implementation,
27 operation, and evaluation of CURES.

28 (e) This section shall become inoperative on July 1,
29 2003, and, as of January 1, 2004, is repealed, unless a later
30 enacted statute, that becomes operative on or before
31 January 1, 2004, deletes or extends the dates on which it
32 becomes inoperative and is repealed.

33 SEC. 92. No reimbursement is required by this act
34 pursuant to Section 6 of Article XIII B of the California
35 Constitution because the only costs that may be incurred
36 by a local agency or school district will be incurred
37 because this act creates a new crime or infraction,
38 eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section
40 17556 of the Government Code, or changes the definition

- 1 of a crime within the meaning of Section 6 of Article
- 2 XIII B of the California Constitution.

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